

**CalRecycle Responses to 2nd 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

Section/ Area	Comment Number	Commenter Affiliation	First name	Last name	Summary of Comment	CalRecycle Response
<b>General Comments</b>						
	215C01	Synagro	Layne	Baroldi	Synagro supports the requirement that digestate be composted at a permitted operation or facility, unless otherwise allowed as an alternative use by a state agency (like the California Department of Food and Agriculture).	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary. §17896.57(a)(3)(B) allows for digestate to be used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. Any digestate that will be applied to land must meet the requirements of §17852(a)(24.5).
	215D01	Victor Valley Wastewater Reclamation Authority	Logan	Olds	The Victor Valley Wastewater Reclamation Authority is supportive of the revised proposed regulations for in-vessel digestion and composting.	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215E01	CASA	Greg	Kester	The California Association of Sanitation Agencies (CASA) is supportive of the revised proposed regulations for in-vessel digestion and composting	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215E02	CASA	Greg	Kester	We believe that the revisions made by CalRecycle effectively address comments we have previously submitted (12/5/14 And 5/6/15).	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215I01	Orange County Sanitation District	James	Colston	The revisions by CalRecycle effectively address comments that were previously submitted by CASA.	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215J01	Southern California Alliance of POTW's	John	Pastore	The revisions made by CalRecycle effectively address comments that were previously submitted by the California Association of Sanitation Agencies (CASA).	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215R01	East Bay Municipal Utility District	Donald	Gray	East Bay Municipal Utility District supports the proposed revisions, which prevent regulatory overlap for the receiving, handling, and anaerobically digesting presorted, preprocessed, and trucked-in solid organic waste at a POTW.	CalRecycle staff has noted the comment. Revisions to the draft regulation text are not necessary.
	215N01	WISErg	Deanna	Seaman	With so little in common between the oxidative conversion and organic waste disposal systems like composting and anaerobic digestion, regulations written for organic waste disposal are a poor fit for alternative technologies like oxidative conversion that capture and retain nutrition rather than dispose of it as a waste. Because such a system needs suitable regulations, we have attached a proposed complete "de novo" chapter 3.3 template that is closely based on and consistent with California's proposed regulations for Anaerobic Digestion Facilities in Title 14, Article 7, Chapter 3.2.	Chapter 3.2 sets forth permitting requirements and minimum operating standards for in-vessel digestion operations and facilities. Digestion, as defined in §17896.2(a)(7), includes aerobic digestion, anaerobic digestion, and other controlled biological decomposition processes. If an oxidative conversion process meets this definition of digestion, an operation or facility using the process to manage solid waste would be subject to the requirements of Chapter 3.2. If the oxidative conversion process does not meet this definition of digestion, an operation or facility using the process to manage solid waste would be subject to the Transfer/Processing Operation and Facilities Regulatory Requirements of California Code of Regulations, Title 14, Division 7, Chapter 3, Articles 6.0 – 6.35.
<b>§17852. Definitions.</b>						
	215F01	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Please consider including and defining the term for "organic".	It is not necessary to define the terms "organic" since this term is commonly used in statute and regulation and is generally understood within the context of the authority and scope of these regulations (see §17850 and §17896.1), which refer to biological decomposition of waste through composting and digestion.
	215F02	Waste Less Living, Inc.	Christine	Lenches-Hinkel	And include in the definition (from 215F1) reference to "compostable products with ASTM D6400 certification.	It is not necessary to reference to compostable products with ASTM D6400 certification as the regulations do not include or address certification requirements

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(a)(4.5)	215A01	West Marin Compost Coalition	Jeff	Creque	<p>“Agricultural By-Product Material” means post-harvest agricultural by-products separated at a processing facility, <u>including pre-consumer, unprocessed vegetative food material generated at a retail produce facility.</u></p> <p>Justification: this material is in no meaningful sense different from the same material classified as <i>agricultural material</i> prior to leaving the farm.</p>	<p>The term “Agricultural By-Product Material” is used only in the definition of land application [§17852(a)(24.5)]. The term applies only to by-products from a processing facility. Such by-products are not subject to the requirements of §17852(a)(24.5) if spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board pursuant to Waste Discharge Requirements, a Waiver of Waste Discharge Requirements, a Resolution, or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control board having jurisdiction, provided the final deposition does not adversely affect public health and safety or the environment.</p> <p>§17856 contains requirements for composting agricultural material [as defined in §17852(a)(5)].</p> <p>The regulations allow pre-consumer, unprocessed vegetative food material generated at a retail produce facility to be applied to land if done so in accordance with §17852(a)(24.5).</p>
(a)(5)	215A02	West Marin Compost Coalition	Jeff	Creque	<p><u>Change “grape” to “fruit.”</u> This recognizes that fruits other than grapes are similarly processed, (e.g., olives for olive oil, apples for apple juice), beyond their point of origin, yielding a compostable by-product.</p>	<p>CalRecycle revised the regulations (in Proposed Regulation Text for the 45-Day Comment Period - dated September 2014) and included the text “but is not limited to” indicating other agricultural material along with grape pomace could meet this definition.</p>
(a)(12)	215C02	Synagro	Layne	Baroldi	<p>...does not reflect biosolids material composting operation. Biosolids facilities should be reflective as a “compostable materials handling operation” and biosolids are not included in the definitions of those listed. Please consider making the following changes bold and italicized to the wording as shown below: (12) “Compostable Materials Handling Operation” or “Facility” means an operation or facility that processes, transfers, or stores compostable material. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and storage activities related to the production of compost, compost feedstocks, and chipped and ground materials. “Compostable Materials Handling Operation or Facility” does not include activities excluded from regulation in section 17855. “Compostable Materials Handling Operation or Facility” <u>also includes, but is not limited to:</u></p> <ol style="list-style-type: none"> <li>a. agricultural material composting operations;</li> <li>b. green material composting operations and facilities;</li> <li>c. vegetative food material composting facilities;</li> <li>d. research composting operations; <del>and</del></li> <li>e. chipping and grinding operations and facilities; <u>and</u></li> <li>f. <u>biosolids composting operations.</u></li> </ol>	<p>CalRecycle revised this subdivision (in Revised Proposed Regulation, Additional 15-Day Comment period - dated June 2015) to include biosolids composting at a POTW.</p>
(a)(13.5)	215A03	West Marin Compost Coalition	Jeff	Creque	<p>“Digestate” means the solid and/or liquid residual material remaining after organic material has been processed in an in-vessel digester, as defined in section 17896.2(a)(14). Digestate intended to be composted pursuant to this Chapter may only be handled at a facility that has obtained a Compostable Materials Handling Facility Permit pursuant to section 17854, <u>except in the case of on-farm digestion of agricultural materials, in accordance with section 17896.6.</u></p>	<p>On-farm digestion of agricultural materials and the composting of digestate derived from on-farm digestion of agricultural materials is covered under §17896.6(a)(2). Pursuant to §17896.6(a)(2), the in-vessel digestion of agricultural material derived from an agricultural site is excluded if the digestate or compost produced from digestate is returned to the same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the agricultural site on which the in-vessel digester is located. No more than an incidental amount of up to 1,000 cubic yards of compost produced from digestate may be given away or sold annually. Digestate that is not composted may not be given away or sold.</p>

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(a)(13.5)	215P01	CR&R Environmental Services	Clarke	Pauley	Recommend changing definition of digestate to say means the solid and/or liquid <u>product</u> remaining after organic material has been processed in an in-vessel digester, as defined in section 17896.2(a).	Digestate may or may not become a product therefore CalRecycle prefers the phrase “residual material.”
(a)(15)(A)3	215L01	Southern California Air Quality Management District	Jong Hoon	Lee	It is recommended to modify the following sentence to read, “storing or stockpiling ..., green material, or <u>stabilized</u> compost for more than...”	This section refers to the storage or stockpiling of compost. The compost can be either stabilized or not stabilized. It is not necessary to add “stabilized.”
(a)(19) (a)(21) (a)(26)	215F06	Waste Less Living, Inc.	Christine	Lenches-Hinkel	We acknowledge and agree with the omission of the term “waste/solid waste” from the “feedstock (19),” “green material (21),” and “mixed material (26)” definitions.	CalRecycle staff has noted the comment. Revisions to the proposed regulation text are not necessary.
(a)(20)	215F03	Waste Less Living, Inc.	Christine	Lenches-Hinkel	“Food scraps,” (food material as currently defined) along with other “organic (compostable) material”, by the general populace and businesses including waste haulers are perceived to be a key component to “solid waste.” “Food scraps” and “organic/compostable material” need to be clearly defined as a “resource” and input to the manufacturing of compost NOT a waste item in need of landfill disposal.	It is appropriate for CalRecycle to use the term “waste,” because Public Resources Code §43020 provides CalRecycle with the authority to adopt and revise which set forth standards for solid waste handling, transfer, composting, transformation, and disposal. Solid waste, as defined in Public Resources Code §40191, includes, but is not limited to, all putrescible and nonputrescible wastes including vegetable and animal solid and semisolid waste.
(a)(20)	215F04	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Consider excluding “food material” and “organic/compostable material” from solid waste definition.	It is appropriate for CalRecycle to use the term “waste,” because Public Resources Code §43020 provides CalRecycle with the authority to adopt and revise which set forth standards for solid waste handling, transfer, composting, transformation, and disposal. Solid waste, as defined in Public Resources Code §40191, includes, but is not limited to, all putrescible and nonputrescible wastes including vegetable and animal solid and semisolid waste.
(a)(20)	215F07	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Consider removing the word “waste” from the definition for consistency and accurate messaging such that the material is valued more as a “resource” and not “waste” material.	It is appropriate for CalRecycle to use the term “waste,” because Public Resources Code §43020 provides CalRecycle with the authority to adopt and revise which set forth standards for solid waste handling, transfer, composting, transformation, and disposal. Solid waste, as defined in Public Resources Code §40191, includes, but is not limited to, all putrescible and nonputrescible wastes including vegetable and animal solid and semisolid waste.
(a)(21)	215L02	Southern California Air Quality Management District	Jong Hoon	Lee	Correct the following sentence to read, “... contains no greater than 1.0 <u>percent of percent</u> physical contaminants...”	The suggested change would have no regulatory effect.
(a)(24)	215C03	Synagro	Layne	Baroldi	Under Definitions Sub-section 24: Please consider adding chipped wood to the definition on Insulating Materials: (24) “Insulating Material” means material used for the purpose of minimizing the loss of heat from a compost pile undergoing the “Process to Further Reduce Pathogens” (PFRP), as described in section 17868.3. Insulating material includes, but is not limited to, soil, <i>chipped wood</i> , and stabilized compost.	The definition does not exclude the use of chipped wood as an insulating material if it minimizes the loss of heat from the compost pile, therefore it need not be specifically included. Soil and stabilized compost have been demonstrated as being effective as insulating material and so have been specifically included.
(a)(24.5)	215C04	Synagro	Layne	Baroldi	CalRecycle defines “Compostable Material” as “any organic material that when accumulated will become active compost as defined in section 17852(a)(1).” As such, Synagro understands that Section 24.5 applies only to such organic material that has not gone through a treatment process to be	Per §17852(a)(24.5)(B)1., this subdivision does not apply to compost produced in compliance with Article 3.1 and/or 3.2 of this Division.

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					considered “Stabilized Compost”. “Stabilized Compost” is defined by CalRecycle as any organic material that has undergone the Process to Further Reduce Pathogens (PFRP), as described in section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperature and rate of respiration below that of active compost. Land application of “Stabilized Compost” products containing biosolids are already regulated by the SWRCB’s Biosolids General Order requirements (General Order No. 2000-10-DWQ). Such intent to only regulate “Compostable Materials” should be clearly distinguished from this section being misinterpreted to apply to “Finished Compost”.	
(a)(24.5)(A)(1)	215P02	CR&R	Clarke	Pauley	The Land Application Phase in time should be extended to January 1, 2020...Land Application physical contamination limits puts an undue burden on the operator for potential frequent PCL testing...With a 0.5% PCL limit, the only way to process virtually all compostable materials will be composting and screening...The requirement that pathogen density limits are met at the time of land application puts an undue burden on the operator for potential frequent pathogen testing. This requirement should be tied back to meeting satisfactory testing results at the frequencies prescribed in section §17868.1.	The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.
(a)(24.5)(A)5	215Q02	California Compost Coalition	Neil	Edgar	This section is vague and needs to be modified to include specific language that any and all sampling and testing results related to compliance with this subsection be subject to the General Record Keeping Requirements found in §17869.  We do not support a lower standard for sampling and testing at chipping and grinding operations... should be subject to the same materials sampling and testing requirements as composting operations and facilities.	Per §17862.1(d), a chipping and grinding operation or facility must sample every 5,000 cubic yards of chipped and ground material and determine the percentage of physical contaminants in the material. Per §17869(f), the operator must keep records of these determinations. Per §17862.1(e), a chipping and grinding operation or facility is not subject to the provisions of §17868.1 (sampling), §17868.2 (maximum metal concentrations), or §17868.3 (pathogen reduction). However, if compostable material from the chipping and grinding operation is land applied, it must meet requirements of §17852(a)(24.5). Per §17852(a)(24.5)(A)5., verification of compliance with the land application requirements must be provided to the EA upon request. This verification may come from any source.  Given the throughput limit of 48 hours (or up to 7 days), it is not practical to subject chipping and grinding operations and facilities to the same materials sampling and analysis requirements as composting operations and facilities. Further, chipping and grinding operations and facilities are one potential source of land-applied material. Other sources of include transfer/processing, landscapers, and landfills, some of which are not subject to these regulations.
(a)(24.5)(A)b	215A04	West Marin Compost Coalition	Jeff	Creque	On land zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than three times during a 12 month period, and, <del>at the time of the land application, the compostable material and/or digestate</del> shall not exceed 12 inches in total accumulated depth <u>per annum</u> on the land surface. The EA, <del>in</del> after consultation with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality, may approve alternative frequencies and depths, if the EA after such consultation determines that the alternative will not adversely affect public health and safety or the environment.	It is necessary to specify that depth be measured “at the time of land application” because the material will decompose and reduce in volume over time.  It is not necessary to add “per annum” since the prescribed standard only allows one application during a 12 month period.  The term “in consultation with...” is consistent with text used elsewhere in California Code of Regulations, Title 14, Division 7.

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(a)(24.5)(A)b	215Q04	California Compost Coalition	Neil	Edgar	Additionally, the new proposed language in §17852 (a)(24.5)(A)(4)(b) appears to allow up to 36” of compostable materials and/or digestate to be applied on land zoned for agricultural uses in three applications per 12 month period. This effectively triples the previous 12” annual allowance and is wholly contrary to compost industry needs to maintain cost competitive feedstock streams while, at the same time, tripling the aforementioned potential threats to the environment. We certainly hope that is not CalRecycle’s intent at that this section can be rewritten to provide more sensible guidelines.	Per §17852(a)(24.5)(A)(4)(b), the material spread on land shall not exceed 12 inches in total accumulated depth on the land surface.
(a)(27.5)	215L04	Southern California Air Quality Management District	Jong Hoon	Lee	Perhaps the wording for the definition of Nuisance would be better served by making reference to Nuisance defined by California Health & Safety code sec 41700.	The “Nuisance” definition is the same as the existing definition of “Nuisance” in 14 CCR §17402(a)(12) relating to Transfer/Processing Operations and Facilities.  The definition of “Nuisance” is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.
(a)(38.5)	215A05	West Marin Compost Coalition	Jeff	Creque	“Vegetative Food Material Composting Facility” is a facility that composts <del>agricultural material, green material, vegetative food material, additives, and/or amendments.</del> A vegetative food material composting facility may also handle manure <u>and other agricultural material, green material</u> and paper products. An operation or facility that handles a feedstock that is not agricultural material, green material, vegetative food material, manure, or paper products, shall not be considered a vegetative food material composting facility. “Vegetative Food Material Composting Facility” does not include activities excluded from regulation in section 17855.	The listing of allowable feedstocks, additives, and/or amendments in the definition of Vegetative Food Material Composting Facility is consistent with the listing of allowable feedstocks, additives, and/or amendments in the definitions of other types of composting operations and facilities (see §17852(a)(6) and (22).
(a)(41)	215L03	Southern California Air Quality Management District	Jong Hoon	Lee	Remove “-” from air-borne to read it airborne.	The suggested change would have no regulatory effect.
<b>§17855. Excluded Activities.</b>						
	215F08	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Please consider including an exclusion for activities that involve recovering source separated organics/compostable materials at the source of generation and prior to disposal into the solid waste stream for direct transport to a composting facility.	Material handled or processed at the site at which it is generated is not subject to these regulations, however if the material is taken off-site for further processing then it would fall under these regulations.
	215F09	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Please consider reinstating the “within vessel composting process activities with less than 50 cubic yard capacity” as an exclusion. There has been much commercial success with this size system and they have proven worthy of its application at this scale. It can serve our cities well into the future to remove such regulatory barriers as it would incentivize cities and businesses to develop local processing capabilities.	Within-vessel composting processes are subject to the exclusion of §17855(a)(4) if the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.
	215F10	Waste Less Living, Inc.	Christine	Lenches-Hinkel	Initially, in-vessel digestion activities with less than 100 cy on-site capacity was included in the rulemaking increasing the capacity from 50 – 100cy. It is now omitted. What is the rationale for the omission of in-vessel systems altogether at this juncture when the environmental benefits of such systems are undisputable? The removal of such an activity is a clear disincentive for	Within-vessel composting processes are subject to the exclusion of §17855(a)(4) if the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.

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					this type of technology to be applied in the marketplace. Please consider adding back this exclusion as it would help diversify opportunities for organics processing at the local level.	
(a)(4)	215A06	West Marin Compost Coalition	Jeff	Creque	<p>Please consider: Composting green material and agricultural material, alone or in combination, is an excluded activity if the total amount of feedstock and compost on-site at any one time does not exceed 500 cubic yards. The compostable material may include up to 10% food material by volume.</p> <p>Justification: this adjustment restores previous exemption status for small compost operations, of which many more will be needed to meet emerging diversion goals for California. 500 cubic yards is a very small quantity of compost, yet sufficient to allow small community and on-farm operations to meet small-scale local needs for organics recycling and compost use. Please restore exemption status for this small quantity of material, and allow inclusion of this small percentage of food material to enable small, low risk, local diversion efforts to flourish in California.</p>	<p>Per existing regulation [§17855(a)(4)], the handling of green material, feedstock, additives, amendments, compost, or chipped and ground material is an excluded activity if:</p> <ul style="list-style-type: none"> <li>• 500 cubic yards or less is on site at any one time,</li> <li>• the compostable material is generated on site,</li> <li>• no more than 1,000 cubic yards of materials are sold or given away annually, and</li> <li>• the compostable material does not include more than 10% food material by volume.</li> </ul> <p>Existing §17855(a)(4) is revised to read the composting of green material, agricultural material, food material, and vegetative food material, alone or in combination, is excluded if:</p> <ul style="list-style-type: none"> <li>• the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet.</li> </ul> <p>The reduction in allowable volume under this exemptions is appropriate given the removal of the restrictions on feedstock source, sell or give away volume, and food material percentage.</p>
(a)(4)	215M01	Inika Small Earth Inc.	Tyla	Montgomery	CalRecycle clarified in SS17855 (4) that composting of any combination of material is exempt so long as it fits within the 100 cy/ 750 sf limit. We are disappointed with this particular modification, as it still does not provide farms a means to participate in California’s mandated organic recycling initiatives. An intermediate step is still missing. An EA Notification would be a feasible middle ground.	The regulatory tier structure for compostable material handling operations and facilities is based on potential risks posed by feedstock types and volumes. Per existing regulation (§17856), agricultural material composting operations are authorized to operate in the EA Notification tier. Food material can be a source of odors, vectors, and other nuisances, which poses a greater risk to public health, safety, and the environment. Furthermore, compliant facilities are generally “better neighbors” that can offer the promise of continued and/or expanded services within a sustainable infrastructure necessary to meet diversion goals. Food material would not be adequately regulated in the lower tiers. Vegetative Food Material Composting Facilities with 12,500 cubic yards or less on-site at any one time qualify for the Registration tier.
<b>§17856. Agricultural Material Composting Operations.</b>						
(a) Also: §17854	215P03	CR&R	Clarke	Pauley	... <i>Recommend change to:</i> "If their feedstock is limited to agricultural material generated from on-site agricultural operations, agricultural material composting operations may handle unlimited quantity of agricultural material on the site from which that the material is generated and may sell or give away any or all compost they produce. If the material is generated off-site and transferred to the compost operation site, then the operation is subject to Article 2, 17854 - Compostable Materials Handling Facility Permit Requirements."	<p>The suggested change is not consistent with existing regulations (§17856), which place agricultural material composting operations in the EA Notification tier regardless of the source (on-site or off-site) of the feedstock.</p> <p>Agricultural material generated on-site is eligible for exclusion per §17855 (a)(1).</p>
<b>§17857.1. Green Material Composting Operations and Facilities.</b>						
(b)(3)	215P04	CR&R	Clarke	Pauley	Recommend change to: “In addition, the EA may issue a cease and desist order pursuant to section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation.”	It is not appropriate to change the “shall” to “may.” §17857.1(b) already allows the operator three opportunities to correct issues before a cease and desist order is issued.
<b>§17862.1. Chipping and Grinding Operations and Facilities.</b>						

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(a)(1)(d)	215Q03	California Compost Coalition	Neil	Edgar	A typo is apparent in §17862.1 (a)(1)(d) which states “the operator shall analyze at least one composite sample of compost”; we believe this is inappropriate for this section.	CalRecycle revised subdivision (d) (in Revised Proposed Regulation, Additional 15-Day Comment Period – dated June 2015) to change “compost” to “chipped and ground material.”
(d)	215K01	Californians Against Waste	Nick	Lapis	As far as I can tell, the only major change on land ap is that chip-and-grind facilities now have to keep records on contaminant levels. Why such a low bar compared to composting facilities? Why not require them to proactively submit records on everything?	<p>Pursuant to §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA. CalRecycle revised §17869(f) (in Revised Proposed Regulation, Additional 15-Day Comment Period – dated June 2105) to specify chipping and grinding operations and facilities must record the determinations of percentage of physical contamination required by §17862.1(d).</p> <p>Per §17862.1(e), a chipping and grinding operation or facility is not required to sample for pathogens and metals. However, if it is land applied it must meet requirements of §17852(a)(24.5). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results.</p> <p>Given the throughput limit of 48 hours (or up to 7 days), it is not practical to subject chipping and grinding operations and facilities to the same materials sampling and analysis requirements as composting operations and facilities. In addition, not all material produced at a chipping and grinding operation or facility is applied to land. If material produced at a chipping and grinding operation or facility will be land applied, the material must meet the requirements specified in §17852(a)(24.5)(A).</p>
(d) & (e)	215P05	CR&R Environmental Services	Clarke	Pauley	The proposed requirement for chip and grind operations to meet PCL of 0.5%, pathogen, and metals requirements if the material will be land applied essentially will be requiring virtually all chip and grind material to be composted and screened prior to being land applied. If this is the intent of CalRecycle, additional permits for new and expanded compost and in-vessel facilities will be necessary to accommodate the additional volume of organics that will be required to be properly processed by this rulemaking.	<p>Chipping and grinding operations will not need to compost material to meet the requirements of subdivisions (d) and (e).</p> <p>Per §17862.1(d), chipping and grinding operations and facilities are required to sample for every 5,000 cubic yards of material produced to determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the LEA.</p> <p>Per §17862.1(e), chipping and grinding operations and facilities are not subject to the provisions of §17868.1 (Sampling Requirements), §17868.2 (Maximum Metal Concentrations), or §17868.3 (Pathogen Reduction).</p> <p>Not all chipped and ground material will be applied to land. For material that will be applied to land, the text in this subdivision related to meeting the requirements of §17852(a)(24.5) (Land Application) is meant to be informative (i.e., the final deposition of compostable material applied to land must meet specified standards). The regulation allows, but does not require, the owner/operator of a chipping and grinding operation or facility to produce these test results.</p>
<b>§17863.4. Odor Impact Minimization Plan.</b>						
(f)(3)	215B01	Western Placer Waste Management Authority	Eric	Oddo	Please use the term “Public Nuisance” to be consistent with CA Civil Code.	It is not appropriate to use the term “Public Nuisance.” These proposed regulations define and use the term “Nuisance” [17896.2(a)(2)], not “Public Nuisance.” The “Nuisance” definition is the same as the existing definition of “Nuisance” in 14 CCR §17402(a)(12) relating to Transfer/Processing Operations and Facilities.

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						The proposed definition is standard legal language for defining a “public nuisance” as found in California Civil Code §§ 3479 and 3480 and which forms the basis for public agencies to abate nuisances in Civil Code §§ 3491 and 3494.
<b>§ 17863.4.1. Odor Best Management Practice Feasibility Report.</b>						
(b)(1) (b)(2)	215L05	Southern California Air Quality Management District	Jong Hoon	Lee	Change onsite to on-site.	The suggested change would have no regulatory effect.
(c)	215Q05	California Compost Coalition	Neil	Edgar	While we understand that this new Odor Best Management Practice Feasibility Report would be required at a critical time in the compliance and enforcement process for an odor issue, it is highly infeasible that such a report be produced within 14 days, if the goal is to produce a comprehensive plan that may represent the operator’s last, best chance to survive. Unless the odor issue is a proven threat to public health and safety – which is rarely the case – we see no good reason why allowing 60 days for proper development and submittal of this report should be a problem.	Per §17863.4.1.(d)(2), the EA can extend the 14 day timeframe. Further, the operator can draw on available experience and data from the implementation of their Odor Impact Minimization Plan, so they would not be starting from a position of no previous experience or knowledge to draw on.
<b>§ 17868.1. Sampling Requirements.</b>						
(a)	215C05	Synagro	Layne	Baroldi	Synagro appreciates CalRecycle’s change to allow for the sampling of the compost “prior to” the point where compost is removed from the site. Synagro’s understanding is that this change was made to allow for representative samples to be taken in a manner to allow for adequate time to obtain sample prior to any compost leaving the site. As commented before, some compost facility permits limit storage of post screened compost to seven (7) days thus making it very difficult, if not impossible to obtain analytical results prior the previous rule language that required the sampling of the compost at the point “where compost is sold and removed”...	Sampling can occur in advance of screening to allow sufficient time to obtain analytical results. CalRecycle staff has noted the comment. Revisions to the proposed regulation text are not necessary.
(a) Also: §17862 §17863	215P06	CR&R Environmental Services	Clarke	Pauley	We recommend the section be modified as follows, and then referenced back to throughout the document: (a) Operators shall verify that compost meets the maximum acceptable metal concentration limits specified in section 17868.2, and pathogen reduction requirements specified in section 17868.3. Verification of maximum acceptable metal concentrations and pathogen reduction requirements shall be achieved by taking and analyzing at least one composite sample of compost, following the requirements of this section as follows: (1) An operator who composts agricultural material, green material, food material, vegetative food material, or mixed material shall take and analyze one composite sample for every 5,000 cubic-yards of compost produced. If the compostable material handling operation or facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period. (2) (as is) (3) (as is)	§17868.1(a) specifies what environmental health standards (i.e., pathogen reduction and metal concentration) apply to compost, and at what point in the composting process an operator is required to verify compliance with these standards. §17868.2 and §17868.3 specify how compliance with the standards is achieved.  The suggestion for §17868.1(a)(1) is consistent with the proposed text.  The suggestion for §17868.1(a)(4) is better suited in subdivision (a), as proposed by CalRecycle. §17868.1(a) specifies what environmental health standards (i.e., pathogen reduction and metal concentration) apply to compost, and at what point in the composting process an operator is required to verify compliance with these standards.  Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.

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					<p>(4) <u>The above verification sampling and testing shall occur prior to the point where compost is removed from the site, or beneficially used on-site. Sample Test results of verification samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.</u></p> <p>(c) (alternative methods- as is)</p> <p>(d) (new) [we suggest adding a reference to a yet to be developed guidance document (California Guide to Field and Laboratory Methods for Compost and Digestate Testing, or something similar) that can be co-developed with CalRecycle, academia, industry associations, and private industry and could provide recommended field and laboratory testing methods for compost, chip and grind, and digestate materials. This guidance document could be updated from time to time as science and industry innovation informs us of new and efficient ways to sample and test these materials for desired results, both in the field and in the laboratory.]</p>	
<b>§17868.2. Maximum Metal Concentrations.</b>						
(a)	215C06	Synagro	Layne	Baroldi	Synagro supports CalRecycle’s requirement for metals testing for all compost. Pursuant to the Federal 40 CFR Part 503 requirements, biosolids composting operations are required to meet vector attraction reduction (VAR) requirements. We recommend adding molybdenum with a limit of 75 mg/kg to the list of metals for testing. This will allow compost to be in compliance with the risk based federal biosolids standards. We are curious as to CalRecycle’s rationale for not requiring other non-biosolids composters to meet VAR.	CalRecycle revised (in Proposed Regulation Text for the 45-Day Comment Period – dated April 2014) The list of metals in §17868.2 is consistent with requirements federal requirements.
(a)	215P07	CR&R Environmental Services	Clarke	Pauley	...we recommend changing the language to: “...Test results of <u>verification samples collected at the minimum frequency described in § 17868.1</u> must be received by the operator prior to removing compost from the composting operation or facility where it was produced.”	§17868.1 and §17868.2 are existing sections. The relationship between the sampling requirements of §17868.1 to the maximum metal concentration requirements of §17868.2 are well established. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.
<b>§17868.3.1. Physical Contamination Limits.</b>						
	215P08	CR&R Environmental Services	Clarke	Pauley	...we recommend changing the operative date to January 1, 2020.	The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.
	215Q01	California Compost Coalition	Neil	Edgar	We are highly supportive of the proposed limits on physical contaminants allowed in compost products (currently set at 0.5%, by weight) and look forward to helping develop the proper sampling and field testing protocol that are needed. However, we do not believe that the proposed implementation deadline of January 1, 2018 is achievable, strongly supporting our recommended January 1, 2020 date.	The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.
(a)	215G01	City of Los Angeles/LA Sanitation Solid Resources Processing and	John	Hamilton	How would a representative sample be taken from 5,000 yds. of material?	The sampling protocol is set forth in §17868.1(d).

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		Construction Division Landfill Group				
(a)	215G02	City of Los Angeles/LA Sanitation Solid Resources Processing and Construction Division Landfill Group	John	Hamilton	If a method (for testing physical contamination limits in the field) has not been developed, CalRecycle needs to develop a method with some standard range that includes error for the non-homogeneous nature of the material.	CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.
(a)	215H01	California Refuse Recycling Council	Kathryn	Lynch	We continue to have concerns regarding the testing methodology that will be used to determine this standard, as well as the short introduction time in applying the standard.	The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time to develop sampling and analysis protocol.
(a)	215H02	California Refuse Recycling Council	Kathryn	Lynch	In addition to a standard that is testable in a reliable manner, time is crucial to educate our customers on what is acceptable material to discard for use at chip and grind, compost and anaerobic digestion facilities. With the passage of 1826 (Chesbro), California will see a ratcheting up of mandatory commercial organics recycling, with a likely expansion in 2021 to cover businesses that generate two cubic yards or more of commercial solid waste per week. This will result in a substantial learning curve over the next five years, as we capture more and more of the commercial organic waste stream. As such, we need time to adjust to this collection and ask that any state standard on contamination of the compostable/digestate material begin January 1, 2020.	The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.
(a)	215H03	California Refuse Recycling Council	Kathryn	Lynch	Our members consider a 1% contamination level to be an acceptable starting point or prefer the regulations remain silent pending the development of a reliable and cost effective testing methodology.	<p>CalRecycle revised (in Revised Proposed Regulation, Initial 15-Day Comment Period – dated April 2015) the physical contamination limit from 0.1% to 0.5% (not to exceed 20% film plastic) for compost product, compostable material, and digestate spread on land. The physical contamination limit will be operative on January 1, 2018.</p> <p>The limit on the percentage of physical contaminants is consistent with nationwide trends (the states of Massachusetts, Minnesota, Montana, Ohio, Washington, and Wisconsin, as well as the United Kingdom, have limits on physical contaminants). In California, the Department of Transportation’s (Caltrans) Revised Compost Nonstandard Specification 21-1.02M, calls for physical contaminants (plastic, glass, and metal) to be less than 0.5% by dry weight.</p> <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p> <p>CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.</p>

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(a)	215L06	Southern California Air Quality Management District	Jong Hoon	Lee	Change 0.5% to 0.5 percent and 20% to 20 percent in order to be consistent throughout the regulation.	The suggested change would have no regulatory effect.
(b)	215C07	Synagro	Layne	Baroldi	Not knowing the complexity of the testing protocol, the requirement to test for physical contamination every 5,000 cubic yards of finished compost will likely add significant additional costs to composting facilities. CalRecycle should include language that increases the volume limitation to a monthly test if the operator employs equipment to reduce contaminants during screening (e.g., an air lift separator).	<p>Subdivision (b) of this section allows for any sampling method that produces accurate results and is approved by the EA.</p> <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p> <p>CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.</p> <p>Subdivision (e) of this section allows an EA to approve alternative methods of compliance if the EA determines that the alternative method will ensure requirements are met.</p>
(b)	215C08	Synagro	Layne	Baroldi	Synagro suggest that CalRecycle develop such a standardized and repeatable on-site testing protocol in combination with a reasonable containment target level of 1% in a manner that will ensure that health and environmental goals of the regulation are met and the testing can be achievable by the compost industry. In the alternative, physical contamination testing frequency pursuant to section 17867.1(a)(1) is recommended.	<p>CalRecycle revised (in Revised Proposed Regulation, Initial 15-Day Comment Period - dated April 2015) the physical contamination limit from 0.1% to 0.5% (not to exceed 20% film plastic) for compost product, compostable material, and digestate spread on land. The physical contamination limit will be operative on January 1, 2018.</p> <p>The limit on the percentage of physical contaminants is consistent with nationwide trends (the states of Massachusetts, Minnesota, Montana, Ohio, Washington, and Wisconsin, as well as the United Kingdom, have limits on physical contaminants). In California, the Department of Transportation's (Caltrans) Revised Compost Nonstandard Specification 21-1.02M, calls for physical contaminants (plastic, glass, and metal) to be less the 0.5% by dry weight.</p> <p>Prior to the January 1, 2018 operative date of the physical contamination limit, CalRecycle intends to develop, with stakeholder input, a sampling and analysis method that can produce repeatable and reproducible results.</p> <p>CalRecycle will develop guidance on sampling and analysis methodologies separate from this rulemaking.</p> <p>It is not appropriate to refer to §17868.1(a)(1) because:</p> <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 applies to compost produced at any composting operation or facility.</li> </ul>

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(b)	215P09	CR&R Environmental Services	Clarke	Pauley	We recommend, as above for clarity to refer back to § 17868.1 for verification sampling. Otherwise, this could be interpreted to mean operators are required to sample every load. If field methods of physical contamination limit sampling are developed, § 17868.1 as we propose, will contain reference to a new testing methods guidance document.	It is not appropriate to refer to §17868.1 because: <ul style="list-style-type: none"> <li>the requirements of §17868.1 only apply to composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities,</li> <li>the requirements of §17868.1 only apply to sampling for pathogen density and maximum metal concentrations,</li> <li>the physical contamination limits of §17868.3.1 apply to compost produced at any composting operation or facility.</li> </ul> <p>§17868.3.1(b) specifies the operator shall sample every 5,000 cubic yards of compost produced and determine the percentage of physical contaminants using a method that provides accurate results and has been approved by the EA.</p>
<b>§ 17868.5. Green Material and Vegetative Food Material Processing Requirements.</b>						
(a)	215O01	Los Angeles Bureau of Sanitation	Enrique	Zaldivar	Section 17868.5 (a) of the proposed draft language will result to our curbside green waste program resorting to landfilling as it is technically infeasible to meet. CalRecycle should focus on the back end of the process and LA SAN does not have any issues meeting to proposed limits delineated in Section 17868.3.1. It is hard to meet the 1% contamination limit on the curbside green waste material...concerns about the methodology on how contamination is proposed to be measured by CalRecycle.	CalRecycle is not proposing a change to existing §17868.5(a)(1) as it relates to the percentage of physical contaminants in green material and vegetative food material feedstock. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes. <p>Green material composting operations and vegetative food material composting facilities are allowed to receive material that contains less than 1.0% physical contaminants. If material exceeds the 1.0% physical contamination limit, it is considered to be mixed material and must be handled at a compostable material handling facility.</p>
(a)(1)	215L07	Southern California Air Quality Management District	Jong Hoon	Lee	Modify the following sentences to read, "If a visual load check indicates a physical contamination level greater than 1.0 percent <u>by dry weight</u> , ... determined." "The load shall be rejected if physical contaminants are greater than 1.0 percent <u>by dry weight</u> of total weight ..."	CalRecycle is not proposing a change to existing §17868.5(a)(1) as it relates to the percentage of physical contaminants in green material and vegetative food material feedstock. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.
<b>§17896.2. Definitions</b>						
(a)	215C09	Synagro	Layne	Baroldi	This section allows digestion facilities to continue "to operate in accordance with its permit until the EA conducts a permit review pursuant to Title 14, California Code of Regulations, sections 18104.7 and 18105.9 and determines that regulation under this Chapter is required. If the EA makes such a determination, the operator shall comply with this Chapter within two years of that determination." CalRecycle struck the pre-existing operations section for composters, however CalRecycle included the above mentioned language for digestion operations with pre-existing permits. Synagro request that CalRecycle include similar language for composters. As written, the regulation will provide undue impacts, both financial and operational, to composters as well as the local LEA's that have to review and approve revised OIMP's, etc.	It is not necessary to provide pre-existing permits and notifications provisions for composters as the regulations do not require compostable material handling operations and facilities to change their regulatory tier placement.
(a)	215P11	CR&R Environmental Services	Clarke	Pauley	Distribution Center In-vessel Digestion Operations is placed in Notification Tier with no volume limit. This seems like an opportunity for large "Distribution Center" food waste anaerobic digestion to be unregulated. Recommend Change: "Small Distribution Center In-Vessel Digestion Operations (less than 60 yd <sup>3</sup> or 15 tpd)"	The placement within the regulatory tier structure is appropriate. Distribution Center In-Vessel Digestion Operations receive only unsold products from retail stores to which the products were originally sent. All unsold products are required to be collected and processed in covered, leak-proof containers, and remain in the custody of the owner at all times. All unsold products that are

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					Distribution center in-vessel digestion operations larger than this should be regulated under "Medium Volume" and "Large Volume" requirements.	putrescible shall be refrigerated at the retail store and shall be maintained at a core temperature of 13 degrees Celsius (55 degrees Fahrenheit) or less during transport to the operation.
(a)(1)	215A07	West Marin Compost Coalition	Jeff	Creque	Change "grape" to "fruit" to allow other minimally process fruit pomace (e.g., olives, apples, etc.) to be included in this category.	CalRecycle revised the regulations (in Proposed Regulation Text for the 45-Day Comment Period - dated September 2014) and included the text "but is not limited to" indicating other agricultural material along with grape pomace could meet this definition.
(a)(6), (a)(13)	215P10	CR&R Environmental Services	Clarke	Pauley	Recommend change the definition to: "Digestate means the solid and/or liquid residual <u>product</u> remaining after organic material has been processed in an in-vessel digester."	It is preferred to describe digestate as a material, as digestate may or may not be considered a product.
(a)(9)	215L08	Southern California Air Quality Management District	Jong Hoon	Lee	Correct the following sentence to read, "...shall be maintained at a core temperature of <u>13</u> degrees Celsius (55 degrees Fahrenheit) or less..."	13 degree Celsius is the correct temperature.
(a)(9)	215K02	Californians Against Waste	Nick	Lapis	For the distribution center digesters, the changes require material in transport to be kept below 55 degrees, which isn't a significant improvement. Why would produce that was not refrigerated when it was on sale have to be refrigerated after it is unsold? I'm afraid this will keep other companies from pursuing the "Kroger model," which has actually proven to be one of the most cost-effective ways to recycle commercial organics.	CalRecycle revised (in Revised Proposed Regulation, Additional 15-Day Comment Period - dated June 2015) the definition to state that unsold products that are putrescible shall be maintained at a core temperature of 13 degrees Celsius (55 degrees Fahrenheit) or less during transport.
(a)(12)(A)	215L09	Southern California Air Quality Management District	Jong Hoon	Lee	Correct the following sentence to read, "... contains no greater than 1.0 <u>percent</u> of <del>percent</del> physical contaminants...."	The suggested change would have no regulatory effect.
(a)(33)	215L10	Southern California Air Quality Management District	Jong Hoon	Lee	Remove "-" from air-borne to read it airborne.	The suggested change would have no regulatory effect.
<b>§ 17896.6. Excluded Activities.</b>						
(a)(2)	215A08	West Marin Compost Coalition	Jeff	Creque	Remove this sentence: "No more than an incidental amount of up to 1,000 cubic yards of compost produced from digestate may be given away or sold annually."	§17896.6(a)(2) is adapted from existing Compostable Material Handling Operations and Facilities Regulatory Requirements [§17855(a)(1)]. This subdivision provides an exclusion for the traditional agricultural practice of in-vessel digestion of agricultural materials. The selling or giving-away of an incidental amount of material (1,000 cubic yards per year) is considered part of the traditional agricultural practice that does not constitute a commercial activity. An activity that has obtained the proper authorization pursuant to these regulations may sell or gives-away more than the incidental amount.
(a)(3)(B)	215A09	West Marin Compost Coalition	Jeff	Creque	Remove this sentence: "No more than an incidental amount of up to 1,000 cubic yards of compost produced from digestate may be given away or sold annually." This is critical to enable proper nutrient balancing on the subject dairy, particularly where co-digestion of imported agricultural material and/or food material is taking place.	§17896.6(a)(2) is adapted from existing Compostable Material Handling Operations and Facilities Regulatory Requirements [§17855(a)(1)]. This subdivision provides an exclusion for the traditional agricultural practices of co-digestion of manure with other specified materials. The selling or giving-away of an incidental amount of material (1,000 cubic yards per year) is considered part of the traditional agricultural practice that does not constitute a commercial activity. An activity that has obtained the proper authorization pursuant to these regulations may sell or give-away more than the incidental amount.

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(a)(3) Also: (a)(3)(B)	215P12	CR&R Environmental Services	Clarke	Pauley	We see that in this round of proposed edits, that dairy digesters that take in imported agricultural material and vegetative food material are proposed to be excluded from this regulation. We question the merit of this exclusion.. As written, there is a loophole that would allow potentially large scale dairy and agricultural material digesters that could accept outside vegetative food material that would not be subject to these regulations. There are several already identified permitting tiers that these operations could fall under based on the proposed volume of feedstock. Why are these types of facilities proposed to be exempt without limit? Are there not equal public health and safety issues associated with these types of operations as with the other in-vessel operations that are proposed to be regulated?	The exclusion is provided to in-vessel digestion at a dairy involving the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight through the Waste Discharge Requirements issued by a Regional Water Quality Control Board.
(a)(3)(B)(5)	215P13	CR&R Environmental Services	Clarke	Pauley	We see that in-vessel digestion associated with rendering operations are also proposed to be excluded from these regulations. It is not clear why these operations would be categorically excluded from these regulations considering the potential for public health and safety issues arising from in-vessel digestion of rendering material. Imagine the potential odor concerns of a large-scale in-vessel digester operation co-located at a rendering operation? There are several already identified permitting tiers that these operations could fall under based on the proposed volume of feedstock.	The exclusion in §17896.6(a)(5) pertains to rendering activities authorized by §19300 of the Food and Agricultural Code in which no solid waste feedstock bypasses the rendering process. Such activities are subject to the regulatory oversight of the California Department of Food and Agriculture. CalRecycle is providing the exclusion in recognition of the level of regulatory oversight through the California Department of Food and Agriculture.
<b>§ 17896.8. Research In-Vessel Digestion Operations.</b>						
(c)	215Q06	California Compost Coalition	Neil	Edgar	We would recommend that the limit of two, two-year periods be removed, with current language retained which leaves the time limit at the discretion of the EA.	The limit of two, two-year periods is appropriate to ensure that this section is used for its intended purpose.
<b>§17896.31. Odor Minimization Plan.</b>						
(b)(1) (b)(2)	215L11	Southern California Air Quality Management District	Jong Hoon	Lee	To be consistent throughout the regulation, change onsite to on-site.	The suggested change would have no regulatory effect.
(f)	215P14	CR&R Environmental Services	Clarke	Pauley	Recommend change “shall direct” to “may direct.”	It is not appropriate to change the “shall” to “may.” The EA’s action to direct an operator to prepare Odor Best Management Feasibility Report is taken only after concluding an investigation (per §18302(d)) and determining that the operator is following an Odor Impact Minimization Plan but odor impacts are still occurring. CalRecycle has mandated preparation of an odor best management practice feasibility report under these circumstances to provide information to the EA to determine whether enforcement is appropriate. The operator may also voluntarily prepare an Odor best management practice feasibility report.
<b>§17896.57. Digestate Handling.</b>						
(a)(3)(A) Also: (a)(2)(B)  *Cited wrong section § 17896.45.	215P15	CR&R Environmental Services	Clarke	Pauley	Digestate is not solid waste, it is a waste derived soil product. Suggest: remove "solid waste" Suggest: "(A) transported to another solid waste facility or operation, or facility that has obtained a Compostable Materials Handling Facility Permit pursuant to section 17854 for disposal, composting, or additional processing; or..."	CalRecycle revised §17896.57(a)(3) (in Revised Proposed Regulation, Additional 15-Day Comment Period - dated June 2015) to remove the term “as solid waste.” §17896.57(a)(3)(A) specifies digestate may be transported to another solid waste facility or operation for additional processing, composting, or disposal. If digestate is transported to another solid waste facility for composting, the Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17852(a)(13.5)] specify digestate intended to be composted may only be handled at a facility that has obtained a Compostable Materials Handling Permit pursuant to §17854.

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					Digestate sampling frequency for metals, pathogens, and physical contamination should mirror the compost regulations.(b) should be revised to reflect this sampling/testing standard in section 17896.58 below.	Subdivision (b) specifies the acceptable end uses for digestate that is known to contain metals, pathogens or physical contaminants that exceeds allowable concentrations, or digestate that has not been analyzed for these constituents and therefore is presumed to contain these constituents in excess of allowable concentrations. Sampling requirements in §17896.58, maximum metal concentrations in §17896.59 and pathogen reduction in §17896.60 all mirror the composting regulations.
<b>§17896.58. Sampling Requirements.</b>						
	215P16	CR&R Environmental Services	Clarke	Pauley	Recommend change to: “The sampling of compost <u>and digestate</u> produced at an in-vessel digestion facility (pursuant to section 17896.57(a)(2)) shall occur at the point (1) where the digestate or compost is removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used, or (2) at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes). Analytical results indicating compliance with sections 17896.59, 17896.60, and 17896.61 shall be received by the operator within 15 business days of digestate being removed from in-vessel digester. Sample results must be received by the operator prior to removing digestate or compost from the in-vessel digestion facility or final composting site where it was produced.”	The regulations do not require digestate to be sampled. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.
<b>§17896.59. Maximum Metal Concentrations.</b>						
	215P17	CR&R Environmental Services	Clarke	Pauley	Line 33, 43, and 44. Recommend, “Compost and Digestate”.	The regulations do not require digestate to meet maximum metal concentration requirements. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.
<b>§17896.60. Pathogen Reduction.</b>						
	215P18	CR&R Environmental Services	Clarke	Pauley	We are concerned that no efforts were made in the last round of edits to address any of the recommendations on pathogen reduction that are unique to Anaerobic Digestion versus composting. Line 8-51: Recommend, “Compost and Digestate” Line 13-15: Recommend: " <u>Sample results collected at the frequency prescribed in section 17896.58(b)(1)</u> must be received by the operator prior to removing compost <u>or digestate from either the in-vessel digestion facility where it was produced, or at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes).</u> ” Line 17: Recommend: Recommend: " <u>Sample results collected at the frequency prescribed in section 17896.58(b)(1)</u> must be received by the	Line 8-51: A product that meets maximum metal concentrations, pathogen reduction, and physical contamination limits would be considered a compost. There is no need to add digestate.  Line 13-15, 17, 22, and 28: The regulations do not require digestate to meet pathogen reduction requirements. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at

**CalRecycle Responses to 2nd 15-day Comments, Proposed Regulation on Compostable Materials, and Transfer/Processing Regulations**

Section/ Area	Comment Number	Commenter Affiliation	First name	Last name	Summary of Comment	CalRecycle Response
					<p>operator prior to removing <u>product from the in-vessel digestion facility site, or the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes).</u></p> <p>Line 22: Recommend: “(2) at in-vessel digestion facilities using an enclosed or within-vessel digestion process, active Substrate shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days, or 120 degrees Fahrenheit or higher for a pathogen reduction period of 15 days. Delete (b) 2(A).</p> <p>Line 28: Recommend delete and Replace with: “(3) Provided substrate temperatures in an in-vessel digestion facility are maintained according to minimum standards prescribed in section 17896.60(b)(2) and sample results prescribed in section 17896.60 (b) are within acceptable limits, no further pathogen reduction of digestate processed in this manner or compost produced from this digestate, shall be required.”</p> <p>Line 32: Recommend Delete (b)(4), as this is redundant with the composting regulations.</p>	<p>another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.</p> <p>§17896.58 and §17896.60 are adapted from an existing regulations in the Compostable Materials Handling Operations and Facilities Regulatory Requirements [§17868.1 and §17868.3]. The relationship between the sampling requirements of §17868.1 to the pathogen reduction requirements of §17868.2 are well established. There have been no issues or concerns with the implementation of this existing section that warrant the suggested changes.</p> <p>Line 32: The entire section, which applies to the on-site aerobic composting of digestate, is adapted from existing compostable material handling regulations.</p>
<b>§17896.61. Physical Contamination Limits.</b>						
	215P19	CR&R Environmental Services	Clarke	Pauley	<p>Suggested Revision: <u>This section shall become operative January 1, 2020. Compost and digestate produced at an in-vessel digestion facility shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters. Compost <i>and Digestate</i> that contains physical contaminants in excess of either one or both of these limits shall be designated for, additional processing, disposal, or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur at the point where compost <i>or digestate</i> is sold and removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used. Sample results, <u>collected at the minimum frequency prescribed in section 17868.3.1(c),</u> must be received by the operator prior to removing compost <i>and digestate</i> from the in-vessel digestion facility <u>or associated composting operation facility</u> where it was produced.</u></p> <p>(b) All in-vessel digestion facilities with an on-site <u>compost process or fully permitted solid waste facilities where final curing, blending, processing or composting occurs (reference codes),</u> shall take one representative sample for every 5,000 cubic-yards of compost produced and send to a laboratory at which physical contaminants greater than 4 millimeters shall be collected and weighed, and the percentage of physical contaminants determined.</p> <p>(c) Alternative methods of compliance to meet the requirements of this section may be approved by the EA if the EA determines that the alternative method will ensure the physical contaminant requirements of this section are met.</p>	<p>The operative date of January 1, 2018 for the percent contamination limit provides a reasonable amount of time for the regulated community to adjust to the new standard.</p> <p>The regulations do not require digestate to meet physical contamination limits. Pursuant to §17896.57(a), digestate shall, within 24 hours, be either: 1) stored or processed on site in a stored container, 2) incorporated in an on-site aerobic compost process, or 3) removed from the site and transported to another solid waste facility for additional processing, composting, or disposal, or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. If composted at the in-vessel digestion facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits must be made prior to compost being removed from facility, consistent with compost regulations. If composted at another composting facility, verification of meeting maximum metal concentrations, pathogen reduction and physical contamination limits will be made at that facility. If used in a manner approved by local, state, and federal agencies having appropriate jurisdiction, the agencies will determine how and where verification is made.</p>