

Stakeholder Comments on Initial Discussion Draft Regulatory Text

Issue 1: Food waste definition

The definition uses a term that would be difficult to enforce (essentially natural state). If the compostable vegetative food material is not recognizable how will the LEA be able to determine what it is. I would suggest that it be in a in its natural form (at least recognizable or verifiable). Otherwise we will have to rely on the honesty of the operator.

The definition uses the term adulterants. Salts, fats, oils and preservatives are ingredients and not really adulterants.

05/09/12

Robert McClellon, County of San Joaquin, Program Coordinator, Environmental Health Department

I believe that prohibiting the addition of salts, preservatives, fats or oils to **Vegetative Food Material** will prevent many restaurants from sending their food material to a Registration-Tier Compostable Material Handling Facility. Rather, it will require that this material be sent to a CMHF with a full Solid Waste Facility Permit. That may not be a bad thing, however.

05/14/12

Mark Janofsky, County of Marin, Community Development Agency

- As previously indicated by the Task Force, there is a clear need to define “food waste” as well as other relevant composting definitions including, but not limited to: “organic waste, compostable organic waste, agricultural waste, biomass, green waste, composting operation, composting facility, and composting product,” to have uniform meaning among the applicable state regulatory agencies and local air districts to eliminate ambiguity and regulatory overlap. Additionally, the proposal uses the term “waste” and “material” interchangeably throughout the discussion. This needs to be avoided or each type of materials must be defined uniformly for use by state regulatory agencies.
- Instead of focusing on the allowable ratio of food waste to green waste in an Enforcement Agency (EA) Notification Tier, find the optimum nitrogen to carbon ratio through documented published research.
- Pilot projects should have a limit or termination date followed by an environmental assessment done by a third party to determine its effectiveness with regard to public health and safety.
- The definition of “Vegetative Food Material” is defined without any discussion on the type of regulatory measures that would ensure that the vegetative material sent to these newly defined facilities are of their “natural state” with “no salts, preservatives, fats, or oils, or other adulterants.” There may be cross contamination issues where animal food material comes into contact with vegetative food material with little to no regulatory oversight.

5/15/12

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force and Council Member, City of Rosemead

This revised definition provides a reasonable strategy for allowing “vegetative” food material at EA Notification Green material operations by raising the tier level to Registration. This change authorizes an EA to increase the inspection frequency and provide more regulatory scrutiny over facilities processing green and food materials. However, special attention will have to be given to upgrading the OIMP at a green operation opting to include vegetative food in its feedstock. Additional odor BMPs may need to be

implemented to manage odorous materials such as spoiled fruits with fermentable sugars and short-chain carbohydrates capable of rapid decomposition, putrescibility and increased vector attraction and nuisance potential. The Registration tier does not allow for EA to include permit conditions so vigorous enforcement of the OIMP may be necessary to manage odor causing practices. EAs should require upgraded OIMPs to address any new feedstock proposed for Notification tier operations seeking to become Registration facilities.

§ 17852 (20), line 4 – uses the term “without limitation”: this qualifier may be too inclusive especially since it refers to the term “food waste” rather than food *material*. It seems to invite abuse, for example would this mean, no limitation on contamination? on sources? an especially obnoxious type of vegetative food waste could not be prohibited?. Staff may want to consider deleting the term “without limitation”.

§ 17852 (20)(A) “Vegetative Food Material” –This proposed definition seems overly broad and inclusive. It may be difficult to determine the presence of salts and preservatives in vegetative food material. Additionally you may want to elaborate on other *adulterants* such as animal derived materials or physical contaminants. It may be hard to separate vegetative from animal derived food waste or other contaminants from the municipal solid waste stream. You may want to consider source separation of vegetative food materials qualifying for this definition.

05/16/12

Bill Prinz City of San Diego, Development Services Department

We agree that this additional subcategory, “vegetative food waste”, is appropriate. It should be worded well enough to exclude things that are made from vegetables, but are no longer in their original state. Things like noodles, breads, crackers, etc. should be excluded from this definition, hopefully. Our concern is that restaurants, delicatessens, bakeries, etc. may need added wording to clearly distinguish the two types of food waste. We suggest adding the requirement that this category of food must be “Pre-consumer” so that items in the kitchens or groceries can only be saved on the front end or prior to serving (coffee grounds could be an included exception). Our concern is that in reality, everything scraped from the plates in these facilities, even if vegetarian fare only is served, will still have dairy, oils, and putrescible foodstuffs added. We would not want these ‘post-consumer food scraps’ as a whole to be considered as vegetative food waste. We agree that ‘pre-consumer’ vegetative food scraps going directly to an approved green material composting operation or facility is appropriate. Also, we would like to note that the current “Food Material” definition cites the wrong Health and Safety Code Section 113785, which does not exist now. It should be 113789 to define a food facility.

May 22, 2012

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

The ESJPA supports allowing limited amounts of vegetative food wastes as proposed. These facilities will still be required to comply with operational standards including controls on nuisances. We do not have any recommended changes to the proposed definitions.

May 31, 2012

Mary Pitto, Program Manager, Environmental Services Joint Powers Authority

CalRecycle’s potential approach of defining sub-categories of food waste may end up creating more confusion among regulators, instead of helping to streamline the permitting process for food waste composting operations. Different categories of food waste may be clear in our mind, but it is unlikely that any source of food waste material would have one consistent stream of waste with no contamination from other the food waste sub-categories. The contamination among these sources could lead to vectors and odors if not managed properly by a food waste composting operation.

In addition to the concerns above, other agencies that regulate compost facilities are starting to make a

distinction between food waste facilities and green waste facilities. Facilities that take any amount of food waste will likely have to meet strict standards that are in the process of being developed by the Water Board and by individual air districts. These standards will require capital investments and site improvements that may be unachievable by small-scale green waste composters.

The proposed regulatory changes you have drafted thus far only pertain to the definitions of food material by adding an additional definition for “vegetative” food material. This change, by itself, is innocuous. However, the stated reason for this change is to allow more putrescible vegetative materials to be processed and composted under a lower permit tier – such as a proposed new Registration Permit Tier for “Green/Vegetative Food Material Composting Facility”. We are concerned that you are only proposing a change to the definition of food waste at this time, without actually proposing the change in regulations that would utilize this new definition.

On the surface, we are opposed to allowing readily putrescible food waste materials, including vegetative food material, to be composted without strict regulatory controls such as would typically be required in a fully permitted facility. There is far too much variability in the food waste stream and abuse is sure to occur.

We request that this proposed change be held until the use of these proposed definition change is fully disclosed in proposed complete regulatory language. It is impossible to assess the impact of the proposed definition change when all we have to look at is the definition change itself. Further, these regulations should be held until these definitions can be brought into synchronicity with those of CDFA and the SWRCB. These regulations cannot move forward without knowing how corresponding CDFA and SWRCB regulations will be worded.

We recommend that any significant of putrescible food waste or putrescible vegetative waste processing or composting be subject to full solid waste facility permitting requirements. Only incidental putrescible food material of any type should be allowed at facilities unless they operate under a full SWFP.

6/1/2012

Rachel Oster, Director of external Affairs Recology

CalRecycle’s potential approach of defining sub-categories of food waste may end up creating more confusion among regulators, instead of helping to streamline the permitting process for food waste composting operations. Different categories of food waste may be clear in our mind, but it is unlikely that any source of food waste material would have one consistent stream of waste with no contamination from other the food waste sub-categories. The contamination among these sources could lead to vectors and odors if not managed properly by a food waste composting operation.

In addition to the concerns above, other agencies that regulate compost facilities are starting to make a distinction between food waste facilities and green waste facilities. Facilities that take any amount of food waste will likely have to meet strict standards that are in the process of being developed by the Water Board and by individual air districts. These standards will require capital investments and site improvements that may be unachievable by small-scale green waste composters.

The proposed regulatory changes you have drafted thus far only pertain to the definitions of food material by adding an additional definition for “vegetative” food material. This change, by itself, is innocuous. However, the stated reason for this change is to allow more putrescible vegetative materials to be processed and composted under a lower permit tier – such as a proposed new Registration Permit Tier for “Green/Vegetative Food Material Composting Facility”. We are concerned that you are only proposing a change to the definition of food waste at this time, without actually proposing the change in regulations that would utilize this new definition.

On the surface, WM is opposed to allowing readily putrescible food waste materials, including vegetative food material, to be composted without strict regulatory controls such as would typically be required in a fully permitted facility. There is far too much variability in the food waste stream and abuse is sure to

occur. Facilities handling food waste and other types of putrescible materials should be regulated to the same degree as facilities to which these materials have been historically directed – principally disposal facilities that are fully permitted. The regulatory structure for food and putrescible waste processing and handling facilities should be as fully protective to California’s land, air and water resources as are fully permitted solid waste disposal facilities.

WM requests that this proposed “definition” change be held until the use of the proposed definition change is fully disclosed in draft regulatory language. It is impossible to assess the impact of the proposed definition change when all we have to look at is the definition change itself. Further, these regulations should be held until these definitions can be brought into synchronicity with those of CDFA and the SWRCB. These regulations cannot move forward without knowing how corresponding CDFA and SWRCB regulations will be worded.

WM recommends that any significant of putrescible food waste or putrescible vegetative waste processing or composting be subject to full solid waste facility permitting requirements. Only incidental putrescible food material of any type should be allowed at facilities unless they operate under a full SWFP.

6/1/2012

Charles A. (Chuck) White, P.E. Director of Regulatory Affairs/West, Waste Management

1. Providing a clear process for composting pre-consumer vegetable materials would be beneficial (e.g. off-spec of rejected produce from packing/cooling sheds that may have only been boxed, transported, and sold, but is still source separated). The LEA does support the requirement that this be done at a facility granted a Registration Tier Permit rather than at the Notification Tier due to potential vector and nuisance issues that may be associated with handling putrescible materials.
2. It is somewhat unclear on what would still be considered an “agricultural material” versus a “vegetative food material”. For instance, onions or lettuce left in a field may be considered “agricultural material” as a crop residue or waste, but lettuce or broccoli boxed in the field but then rejected at the packing or cooling shed would be considered a “vegetative food material”. Is this correct?
3. Is an agricultural material composting operation with manure feedstock excluded from incorporating “vegetative food material” in any quantity since it is not a green material composting operation? It would seem that allowing some limited quantity of agricultural waste material (that may be rejected as a vegetative food material) to be incorporated at these sites as a feedstock may be beneficial for agricultural operations, but maybe with the Registration Tier requirement maintained. Re-permitting agricultural composting operations as green material composting operations will conflict with current land use and zoning regulations in Imperial County.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

Title 14 Division 7 Chapter 3.1 Article 1 Section 17852, the board is looking into changing the wording in this definition. By deleting the wording “that was acquired for” and adding “resulting from the production or processing of food” as well as adding “food processing establishments” will open a wide interpretation of what food waste is or where it comes from. This proposed wording would include all growers/shippers in the Salinas Valley and Southern California. This is a huge problem for the fact that if there was a problem with the raw material harvested from a field of lettuce, broccoli, spinach, etc. it is usually dumped back into the field from which it came from. The problem could be from being out of spec for the receiver but still deemed fit for consumption or possible having small traces of pesticides that have shown up in testing. With the current proposed wording this would include these processors. Also if the processor is of tomato in origin, the resulting byproduct can’t be used for beneficial use on agriculture ground that is

alkaline. Also you had stated that the Water Quality Control Board is concerned with salt for processed tomatoes. The amount of salt from the processed tomatoes that have been turned into a sauce or paste is so little it isn't worth worrying over, you get 5 times more salt from organic fertilizer than you would from any of these products. I can understand if the product contained any form of meat and applying it to the ground, but farmers don't want the fats from that type of byproduct because of the non-beneficial nematodes that are attracted to those fats and will cause crop damage.

7/31/2012

Johnny Massa, Comgro Soil Amendments Inc.

CRRC supports the division of food material into vegetative and non-vegetative categories, with vegetative materials as a subcategory of green material. We believe that the vegetative fraction of the food material can be managed effectively as green material by compostable materials handling facilities with little or no additional environmental impacts, and accepted as green materials at Agricultural Material Composting Operations and Green Materials Composting Operations and Facilities, in addition to facilities with Full Solid Waste Facilities Permits.

However, when meats, fats, oils, and greases constitute a > 10% portion, by weight, of the food material, the potential odor generation, vector attraction, and other impacts render this material suitable for only facilities with Full Solid Waste Facilities Permits, where the appropriate levels environmental review and land use approval have occurred, and proper mitigation methods and controls are employed. Both of our vegetative and non-vegetative definition recommendations are consistent with the wording that CalRecycle proposed on [May 1, 2012](#).

Additionally, we recommend use of the existing Title 14 municipal solid waste definition in reference to the newly proposed food material definitions. At your February 21, 2012 meeting, it was presented that the use of "municipal" be stricken from current regulatory language; we believe the existing definition found in 14 CCR 18720(a)(40) is appropriate and consistent with this regulatory revision:

(40) Municipal solid waste or MSW.

"Municipal solid waste" or "MSW" means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, at food-processing facilities, and at treatment works for water and waste water, which are collected and transported under the authorization of a jurisdiction or are self-hauled. Municipal solid waste does not include agricultural crop residues (SIC Codes 071 through 0724, 0751), animal manures (SIC Code 0751), mining waste and fuel extraction waste (SIC Codes 101 through 1499), forestry wastes (SIC Codes 081 through 0851, 2411 and 2421), and ash from industrial boilers, furnaces and incinerators.

Most importantly, CRRC recommends additional work be done to address contamination in food material to establish a brighter line between what constitutes food material and MSW at permitted food waste compost facilities and at permitted MSW compost facilities. Statewide – in an effort to maximize diversion – programs are underway where some recyclables may (with limited effort or success) be separated from the MSW generated, with the remaining organics-laden material being considered source-separated. In the attached waste characterization from a sample, real world program, over 40% of the so-called "source-separated" food material was contaminants. Permitted "Mixed Waste" composting facilities are accepting this material as "food waste" under their Solid Waste Facility Permit, where it is truly MSW; a composting facility accepting this material should be permitted as an MSW composting facility, and otherwise not be able to accept this MSW as food waste.

To implement this, we recommend that CalRecycle require that the food materials that can be accepted at food waste composting facilities be allowed to contain no more than 10% contamination, or be further processed at a material recovery facility to remove contaminants and recyclable commodities, prior to acceptance at a food waste composting facility. The majority of composting facilities are not equipped to manage excessive levels of contamination, nor should CalRecycle incentivize generators to contaminate valuable recyclable materials by an absence of food material contamination standards. With regard to the

amount of food waste accepted (not counting contamination), we recommend three tiers of regulation, consistent with the current regulatory tiers for compostable materials, as follows:

- **Tier I:** Any food material that contains > than 10% physical (inert, non-compostable) MSW, and/or any animal/meat waste or additives, e.g. sugars, synthetics, etc., content requires a Full Solid Waste Facilities Permit as an MSW compost facility. Food material with less than 10% contamination can be accepted at a Full SWFP as a food waste compost facility.
- **Tier II:** Putrescible vegetative food material (>50%, wet and oily by weight), is permitted as a "Registration Tier" permit with special conditions, capacity limitations of this material in excess of the EA Notification facilities, especially to handle, desiccate and/or manage odor or any potential leachate.
- **Tier III:** Non-putrescible food waste including woody wastes and "cooked" (via food scrap decomposer/dryer, etc.) and, therefore, low moisture (<50%) by weight food materials can be composted with and as "green material" at an EA Notification facility with less than 12,500 cubic yards of material on-site.

As part of this regulation writing and rule making process, we also *highly recommend* that CalRecycle include wording that directly reflects how it proposes to regulate the implementation of its new food material definition. We propose that LEAs be required to regulate food waste according to the above defined tier level, and that this be explicitly stated in the upcoming formal regulatory package process.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

The proposed Food Waste definition is generally good and addresses the major concerns with the existing definition. The requirement for green material composters to obtain a Registration tier permit is a reasonable prerequisite for adding vegetative food material to its feedstock. This would subject the operator to more frequent inspections to assure compliance with the standards for odor controls, vectors and other concerns associated with vegetative food materials.

There should also be a short list of items that meet the vegetative *food material* definition, such as coffee grounds, grape pumice, etc that are deemed innocuous. Additional vegetative feedstocks could be added with EA approval. EA approval should also be required for any vegetative foods that are likely to have "salts, preservatives, fats or oils, or other adulterants". This approval should include reviewing the source of the vegetative food material and/or some sort of affidavit from the source stating what they will be providing to the operator and that it meets the definition of vegetative food material. It must be understood by the regulated community that it would be extremely limiting to allow only "unadulterated" vegetative food material.

11/26/2012

Bill Prinz City of San Diego, Development Services Department

The Bureau of Sanitation (BOS) agrees with CalRecycle's proposal to expand the acceptance of food waste at Green Material Composting Operations. However, CalRecycle should recognize that cooked food typically contains salts, oils, and other adulterants such as preservatives, fats, oils, seasonings, and dressing. The new proposed subcategory, "vegetative food material," is therefore too restrictive. In addition, the proposed regulations do not address any handling or processing guidance for "vegetative food material" that would ensure that the food material does not contain any adulterants.

The BOS suggests the following revision to the definition of "Vegetative Food Material" (Section 17852(a)(20) (A) be modified to read as:

(A) "Vegetative Food Material" means food material derived solely from plants ~~resulting from~~

~~the production or processing of food for animal or human consumption, but is no longer intended for such consumption, that is derived solely from plants. Vegetative food material may be processed or cooked, but must otherwise remain in its essentially natural state and no salts, preservatives, fats or oils, or other adulterants shall have been added.~~

Furthermore, in the City of Los Angeles, there are many types of food material generators and they are likely to have commingled vegetative and non-vegetative food materials containing adulterants to be composted. Therefore it will be uneconomical, infeasible, and a general burden for food material generators to separately collect and transport sub-categories of food materials to different composting facilities, especially if the composting facilities are located far from the sources of generation. CalRecycle should alternatively allow a portion of the material accepted at the Green Material Composting Facility to be of "food material", rather than defining an acceptable sub-category. Doing so will expand the ability for many food waste generators to divert organic materials from landfills.

11/30/2012

Enrique C. Zaldivar, P.E., Director, City of Los Angeles, Bureau of Sanitation

Issue 2: Land application: disposal or beneficial use

The land spreading of organic material is common practice. Over use is not a problem because of costs and possible detrimental affects on production. The problems arise on marginal farm ground and waste driven compost operations. Most of this activity is not occurring on prime ag land where the main objective is the crop health. The definition needs to include restrictions on marginal ag land or range land and plan should be submitted to the LEA prior to the land spreading of the waste. The LEA's discover this activity as a result of the complaint process and by that time it is too late.

5/09/12

Robert McClellon, Program Coordinator REHS, Environmental Health Department

17852(a)(15)(A)2. – I believe that the period of time which is used to determine when storage of compostable materials becomes disposal should be longer than 72 hours. It was previously more than six months, so perhaps it should be decreased to one month.

17852(a)(15)(A)3. – Rather than specifying "prime agricultural land, as defined by Government Code Section 51201", would it be possible to specify "land zoned for agricultural uses, as determined by the Local Planning agency"? Having read Government Code Section 51201, it seems that some of the determinants of Prime Agricultural Land would be difficult to verify.

05/15/12

Mark Janofsky, County of Marin, Community Development Agency

The approach such as "the compostable material shall not be applied more than once per year, at time of application, the compostable material shall not exceed an average of 12 inches in total depth..." appears more reasonable to achieve. Additionally, CalRecycle proposes to use 0.1% physical contamination level. Not only is the 0.1% extremely difficult to measure, but the proposal also fails to define the term "physical contamination" since the term "organic" includes materials other than "compostable organic."

5/15/12

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee/ Integrated Waste management Task Force and Council Member, City of Rosemead

The changes to this definition and excluded activity are very good. Nice work.

05/16/12

Bill Prinz, City of San Diego, Development Services Department

Comment A: Excluded composting can produce nuisance conditions by excessive storage of their products, even on someone else's property. We recommend eliminating this blanket exclusion for "excluded operations" from the proposed disposal criteria. The only exemption from the disposal definition should be given if the compostable material stockpile from excluded sites remains on the site where it is produced. But if it is stockpiled somewhere else, it should not be excluded.

Comment B: The draft definition seems to take the position that depositing compost on a property is basically disposal, unless it meets certain criteria. We would rather not give an exemption from "illegal disposal" to excluded types of composting operations. The draft wording does not go far enough to prevent further stockpiling and disposal such as what occurred at the Grimsley property in San Benito County.

Comment C: Stabilized compost is not defined in Section 17868.2. This section describes metal limits and has nothing to do with stabilization criteria.

Comment D: We suggest rewording to a definition that does not start out with "Disposal. means:"... It is less clear when you have a definition that only states what is excluded from disposal. Also, it is very onerous to have a definition within a definition when it tries to define Land Application within the disposal definition. We recommend alternate verbiage as specified below:

"Disposal of compostable materials" Compost applications and uses (including compost derived from excluded sources as defined in Chapter 3.1 pursuant to Section 17855) shall be deemed disposal if any of the following (A-E) are determined by the EA to occur. If the activities at a site meet any of the criteria of disposal of compostable material, the site shall be regulated as set forth in the Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste (commencing at Title 27, California Code of Regulations, Section 20005). For the purposes of this article, the compost producer is responsible for the abatement, removal and proper disposition of the compost application that is deemed disposal if (A), (D) or (E) apply. Furthermore, records of the product and overs trucking volumes and destinations must be maintained available for the LEA upon request. [we need this language somewhere in order to enforce timelines and track volumes delivered over time]

(A) Compost product has been moved to a separate property other than where it was produced in a volume or state of stability that triggers some form of tiered permitting (Notification or higher) to be established for that location. [this would thereby deem a composter responsible for the disposal because of a nuisance stockpile, that the LEA deemed to be a notification tier operation.]

(B) More than 200 cubic yards of compostable material has been stored or stockpiled onto non-prime agriculture land more than 2 weeks. [The proposal was just 72 hours, which will not allow for a need to adjust to unseasonal rain and high wind conditions. Even one month is better.

(C) More than 200 cubic yards of compostable material has been stored or stockpiled onto prime agricultural land as defined in Government Code section 51201, unless the EA, after consultation with the RWQCB and other agencies as the EA deems appropriate, makes a written finding that storing or stockpiling the material more than 12 months will not adversely affect the public health and safety or the environment.

(D) Compostable material is applied to a property such that it does not meet the definition of "Land Application of Compostable Material" and would not be deemed beneficial use as defined in this section under excluded activities. These include but are not limited to, applications greater than an average depth of twelve inches, applications greater than once per year, and having a contamination level of glass, plastic and metal fragments not greater than 0.1 percent by total weight or more than 1.0% by volume for plastic content.

(E) Compost product or by-product from the compost screening process is applied to an active landfill as an Alternative Daily Cover that is inconsistent with the cover requirements of the receiving facility both in

terms of contaminant loading or thickness of application.

This is the proposed definition rewording for Land Application:

Comment E: “Land Application of Compostable Material” means the application of compostable material land at agronomic rates. The compostable material shall not be applied more than once per year. At the time of application, the compostable material shall not exceed an average of 12 inches in total depth and shall contain no more that 0.1% physical contaminants by volume and 1% total volume for plastics. The EA, in consultation with a certified professional agronomist, a certified crop advisor, or other qualified person, as determined by the EA, may approve alternative application depths and frequencies if the EA determines that the alternatives will not adversely affect public health and safety or the environment.

May 22, 2012

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

The ESJPA supports the beneficial use of land applications and the proposal to exclude alternative daily cover as excluded activities.

The measurement for the 0.1% physical contaminant should be by weight to provide a more accurate measurement. Plastics and Styrofoam are very light weight and a significant problem but measurement by volume would be difficult since these contaminants can be compacted or even baled to reduce volume.

§ 17852. Definitions. (a) (15) (C)

If an operator proposes an alternative application depth and/or frequency, shouldn't the operator consult with the listed professionals on the proposal and submit it to the EA for approval? We propose the following change:

The ~~operator~~EA, in consultation with a certified professional agronomist, a certified crop advisor, or other qualified person, ~~as determined by the EA,~~ may ~~approve-propose~~ alternative application depths and frequencies if the EA determines that the alternatives will not adversely affect public health and safety or the environment.

May 31, 2012

Mary Pitto, Program Manager, Environmental Services Joint Powers Authority

We are supportive of CalRecycle's proposed concept that establishes specific criteria to determine when the use of compostable material, compost and ash is considered disposal and not beneficial reuse. Compostable material with greater than 0.1% physical contamination should be disposed of or further processed and should not be land applied. This standard, in addition to specific depth and frequency restrictions, will decrease the risks of fires and decrease the release of pathogens, vectors, metals and other chemicals by ensuring this material is being properly processed by a regulated compost operation.

This standard would discourage unsafe land application practices, which are prevalent in the State due to the cost differential between land application and composting. We support a 0.1% by weight standard applicable to either green material or compost when applied to land.

In addition, we request consideration of the following issue:

- The Ventura County Ordinance contamination levels are measure by volume. However, volumetric measure is extremely subjective. If by weight, as least it can be more accurately determined if samples are taken and contamination is removed and weight. We are generally more favorably inclined toward the “by weight” approach rather than “by volume” simply due to being more accurate by way of measurement. We would be willing to consider other

measurement alternatives that can be justified.

6/1/2012

Rachel Oster, Director of external Affairs Recology

WM is supportive of CalRecycle's proposed concept that establishes specific criteria to determine when the use of compostable material, compost and ash is considered disposal and not beneficial reuse. Compostable material with greater than 0.1% physical contamination should be disposed of or further processed and should not be land applied. This standard, in addition to specific depth and frequency restrictions, will decrease the risks of fires and decrease the release of pathogens, vectors, metals and other chemicals by ensuring this material is being properly processed by a regulated compost operation. This standard would discourage unsafe land application practices, which are prevalent in the State due to the cost differential between land application and composting.

WM is current successfully meeting this standard for green materials applied to land in Ventura County from green material that originate both within Ventura County and materials generated in Los Angeles County. WM supports a 0.1% by volume standard applicable to either green material or compost when applied to land. Further WM has successfully developed a measurement protocol for determining compliance with the current 0.1% volumetric standard in Ventura County. *WM supports a 0.1% by volume standard applicable to either green material or compost when applied to land.*

In addition, WM requests consideration of the following issues:

As you propose, the percent contamination standard should be applied at the time of application, not at some subsequent period. This is because organic material will oxidize and become reduced in weight (and volume) over time. Contamination levels that are initially in compliance, may fall out of compliance over time. The Ventura County Ordinance is applicable only "at the time of application".

Why should application of compostable material be limited to once per year as long as total depth and contamination level requirements are met? Why not allow 2 six-inch applications per year and subsequent additions of material provided total depth does not exceed 12 inches?

In view of the above consideration, WM proposes that the draft proposed language in paragraph (a)(15)(C) be modified as follows:

(C) Disposal of compostable material does not include land application of compostable material. "Land Application of Compostable Material" means the application of compostable material to land at agronomic rates. The compostable material shall not be applied more than once per year. At the time of application, the compostable material shall not exceed an average of 12 inches in depth from all compostable materials applied from the base soil and shall contain no more than 0.1% physical contaminants by volume in the material at the time of application. The EA, in consultation with a certified professional agronomist, a certified crop advisor, or other qualified person, as determined by the EA, may approve alternative application depths and frequencies if the EA determines that the alternatives will not adversely affect public health and safety or the environment.

6/1/2012

Charles A. (Chuck) White, P.E. Director of Regulatory Affairs/West, Waste Management

1. For the "Disposal" definition, please consider that the Colorado River Regional Water Quality Control Board has historically based the timeframe for removal of manures from confined animal feeding operations on the requirement to not stockpile compostable material on land for more than 6 months. The Waste Discharge Requirements used for these facilities specify that pens need to be cleaned at a frequency of no more than 180 days. This definition has been used extensively in Imperial County to minimize/control the stockpiling of cattle manure at feed yards, ditch banks, field access roads, along rivers, and other locations. These locations are not considered the placement of agricultural material on "prime agricultural land", so the twelve months as defined would not apply, nor would this be restrictive enough for local code enforcement efforts. We often have manures "disposed" rather than being land applied for

fertilizer due to the costs of managing these waste materials and respond to regular public complaints due to these materials being stockpiled next to rural residences or other inappropriate locations (I can provide copies of enforcement letters if necessary). Conversely, limiting this material to being stockpiled for only 72 hours would also not be practicable for agricultural operations.

2. The Imperial County LEA has also regulated the stockpiling of green material at landscaping operations, golf courses, and RV parks, and have often taken enforcement action based on the 6 month disposal requirement. It would be difficult to enforce a 72 hour removal frequency in a manner that promotes the recycling of this material in rural areas.
3. Under 14 CCR 17855, the LEA has worked with CDFA on a number of instances to prevent inappropriate "land application" based on the claim of beneficial use. In the Food & Agricultural Code, if a generator claims beneficial use of a material for land application, it by definition would be considered a "fertilizing material" and therefore regulated by CDFA licensing requirements also. While these are not very restrictive, it has been useful to try to avoid the land application of compostable materials with public health risks, such as the sludge from an anaerobic lagoon that is fed by process water from the floor of a beef slaughterhouse facility. Removal of this option may actually make it more difficult for the LEA to prevent the mismanagement of these wastes with significant public health impacts.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

Section 17852 (a)(15)(A)(2) --- I think 72 hours is WAY too short. I would suggest changing language to 'more than seven days'. Also, EA waiver language, like in (3), should be added to (2).

6/13/2012

Mike Schmaeling, County of Santa Barbara Public Health Department

CRRC is supportive of CalRecycle establishing an operative definition of "disposal" for land. We do not support the development of a "model ordinance" that would be adopted in a piecemeal approach by jurisdictions and look forward to a statewide standard that would be enforceable by local enforcement agencies immediately upon approval of this regulatory effort. CRRC also supports rigorous outreach to all affected stakeholders impacted by changes to land application. As presented by staff at the February 21, 2012 informal workshop, we recommend draft regulations that achieve the following (which is now reflected in the current wording that you published [May 1, 2012](#)):

"Disposal" means:

- Organic material exceeds 0.1% physical contamination
- Organic material stored or stockpiled on land for greater than six months
- Organic material application exceeds an average of 12 inches in total depth - aggregated over the year cycle (it should be turned into the soil before 6 months)
- More than one application per calendar year - except if used on a row crop, where the time is restarted after the crop is harvested, or if the applied material has been decomposed and/or worked into the soil.
- Organic material that could pose public health impact (pathogens, metals, vectors, chemicals)

Exception – LEA, after consultation, could determine that the application is not disposal

Additional Exceptions:

- Does not apply to excluded activities related to storage of mulch as described Section 17852 (a)(10)(A)(2)
- Application of compostable material on Agricultural Land may exceed average depths of 12 inches upon receipt of prior written approval by LEA, local fire district, and county agricultural

commissioner

- Does not apply to the storage and application of compostable materials in quantities of less than 200 cubic yards per parcel

In addition, this particular regulation should also have specific workshops with agricultural industry stakeholders (regulators, growers, etc.) to determine the best way for CalRecycle to implement and enforce this new proposed definition and proposed regulation.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

There should be some discussion on a total limit on the amount of material placed on the ground above and beyond the 12 inches annual limit. If a site is used every year there should be an application depth maximum. Alternately, can there be a requirement added that addresses disking the material into the soil at a timeframe not to exceed xxx so this doesn't end up as product dropped and left on a field?

10/3/2012

Greg Reyes, Supervising EHS, County of Riverside Department of Environmental Health

I would like to make an official suggestion that issue 2 (land application) be amended to include a requirement that directly-land applied greenwaste be subject to the same pathogen reduction and heavy metal requirements that apply to finished compost.

It seems to me that this should be an obvious addition. If we are afraid of pathogens and heavy metals surviving the composting process, then there should be an even greater concern with uncomposted material being directly land applied.

Please let me know if you need anything else from me or if there is a good reason why these standards shouldn't apply.

10/11/2012

Nick Lapis, Legislative Coordinator, Californians Against Waste

§ 17852. Definitions (a)(15)(A)2 – the quantity of 200 yd³ and the 72 hour storage/stockpiling time seem arbitrary. However, having a short time limit may provide incentive to go through the evaluative process in (a)(15)(A)3.

(a)(15)(C)3 – Contamination limit should be by weight. The evaluation by the EA and other agencies to allow for extended storage times/pile size seems like a reasonable process for protection of health and safety.

Pathogen reduction needs to be reviewed to determine if PFRP process is adequate to destroy plant pathogens and insect pests which have become a concern in recent years and could potentially be spread via processed green material (PGM). Chipping and Grinding Operations (CG) have been exempt from pathogen reduction requirements without consideration of PGM as a source of plant pathogens and insect pests. Yet composting facilities and operations - which implement PFRP - are subject to pathogen and constituent of concern testing while CG operations continue to freely accept and distribute uninspected feedstock while making product with minimal controls. CG operations that apply their products for anything other than landfill ADC need to implement pathogen reduction procedures, including record keeping requirements, prior to shipping their material off their property.

11/26/2012

Bill Prinz City of San Diego, Development Services Department

The BOS agrees that land application of compostable material should be considered beneficial reuse (Section 17855), and CalRecycle should consider compostable material used as a soil amendment, soil nutrient, for dust control, and for water conservation as beneficial uses as well. Regarding the level of

physical contamination allowed at the time of land application (Section 17852(a)(15)(C)), the compostable material should not contain more than 0.1% physical contaminants by weight rather than volume. Using a “weight of contaminants per weight of gross compostable material land applied” basis will be less subjective and relatively easier to measure in the field.

11/30/2012

Enrique C. Zaldivar, P.E., Director, City of Los Angeles, Bureau of Sanitation

Issue 3: On-site storage and 12,500 cubic yard limit

CRRC supports the limited increase in available finished compost storage, as described in your draft language released on July 3, 2012. The availability of additional finished compost storage capacity to small operators may be an important option at times when agricultural markets are impacted by weather or other disruptions to typical growing operations and compost purchases and applications must be delayed, or forgone. We recommend that wording be added to allow unlimited storage of finished compost and be excluded from allowable volume at all fully-permitted composting facilities, as well.

We also recommend the elimination of the new paragraph of *new section* 17862.1. (a)(1) that gives more time between EA inspections of Chipping and Grinding Operations, i.e. *do not add this proposed new language* to the regulation. We believe that this reduction in oversight of Chipping and Grinding Operations and Facilities will enable an increasingly uneven playing field between these operations and composting operations and facilities which are already treated inequitably under a majority of CalRecycle, Water Board and Air District regulations.

We would additionally recommend that section 17 (f) be amended to read:

If a chipping and grinding operation or facility stores material for a longer period of time than is allowed by section 17852 (a)(10)(A)(2), it shall be regulated as a green material composting operation or facility, as set forth in this Chapter.

We make this last recommendation, to change “handling” to “composting,” to provide further clarification on the chipping and grinding operation or facility storage time limits, since we could not find “green material handling operation or facility” regulation set forth in this Chapter (other than in the solitary “handling” definition contained in Section 17852. Definitions. (a)(23)).

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

Recology agrees with the approach CalRecycle is taking on this issue. However, we support the clarification that the 12,500 limitation only applies to feedstock and unfinished compost – not to finished product and that the finished product would not be subject to the tonnage limitation. Finished compost has met all existing regulations so is no longer considered a waste or feedstock so should therefore not be subject to any limit while being stored on-site.

Recology supports CalRecycle providing the EA with discretion to authorize an operator to temporarily store additional feedstock and unfinished compost if the EA determines it will not adversely affect public health and safety or the environment. Due to the seasonal variation of incoming green material, there are times of the year that an on-site storage limit of 12,500 cubic yards is not sufficient to handle the amount of green waste residents and businesses discard. Allowing operators to apply to the EA to accept additional material will support the continuing success of composting operations as well as increase the diversion of green waste throughout California.

8/8/2012

Rachel Oster, Director of external Affairs, Recology

Redefine agricultural material and green material to have uniform meaning among other regulatory agencies, such as Air Resources Board, the State Water Resources Control Board, and the California Department of Food and Agriculture, to eliminate ambiguity and regulatory overlap.

Include standardized requirements for pile size, temperature monitoring, pile separation, and pile setbacks from the facility's property boundaries for review and approval by the EA.

Section 17856 - Agricultural Material Composting Operations

Subsection (d)(1)(B) states in part, "The operator may request in writing that the EA authorize it to handle more than 12,500 cubic yards of material used for the production of compost on the site... The EA may not prohibit the on-site handling of materials in excess of 12,500 cubic yards unless it makes a written finding that handling the excess material may pose a risk to public health and safety or the environment."

The burden of proof to store additional materials without adverse effects on public health and safety or the environment should be placed on the owner/operator of the facility rather than the EA. As such, the operator must provide the EA with necessary documents for approval substantiating that the storage of additional quantities of material, as specified, will not have adverse impacts on public health and safety and the environment.

The proposal would allow storage of undefined additional material for a period of up to 90 days in a calendar year. In an urbanized area storage of unlimited quantities of materials beyond 12,500 cubic yards is of major concern due to the negative impact on neighboring residents, schools, and the immobile population. As such, Agricultural Material Composting Operations and Green Material Composting Operations and Facilities should not be allowed to be located within a quarter-mile radius of residences, schools, hospitals, senior citizen complexes, and other immobile populations without appropriate measures to mitigate adverse impacts.

Section 17856 — Agricultural Material Composting Operations.

To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:

- "Subsection (e) —These sites shall record the quantities of agricultural and green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis."

Section 17857.1 —Green Material Composting Operations and Facilities.

To assist local governments with the effectiveness of their diversion programs, this Section needs to be expanded to include the following new subsection:

- "Subsection (d) —These sites shall record the quantities of agricultural and green materials received, by jurisdiction of origin, and submit the data to the appropriate jurisdictions on a calendar quarterly basis."

8/9/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force and Council Member, City of Rosemead

The BOS agrees with the regulatory revisions (Section 17857.1(a)) allowing temporary handling more than 12,500 cubic yards of feedstock, compost, and chipped and ground material on site for an initial term of not exceeding 30 days, with additional extensions not to exceed a total of 90 days per calendar year, provided a written request to the EA and subsequent approval by the EA.

However, CalRecycle should also seriously consider excluding finished compost from the 12,500 cubic yard maximum quantity for Green Material Composting Operations. Compost is a usable and marketable product and therefore no longer fits the definition of solid waste.

11/30/2012

Enrique C. Zaldivar, P.E., Director, City of Los Angeles, Bureau of Sanitation

Issue 4: Odor complaints

Thank you for allowing the opportunity for the Solano County Local Enforcement Agency (LEA) to provide comments on the working draft Standard Threshold Management Plan (STOMP) concept proposed by CalRecycle to address Issue 4-Odor Complaints related to compostable materials operations. Prior to providing our comments, it is important to note the background experience of the Solano County LEA in addressing odor issues from a large composting operation receiving green waste and food scraps as feedstock. Our background and comments are provided below:

BACKGROUND:

As California continues towards improving diversion rates, including the implementation of goals to reach 75% diversion, the potential for significant odor issues at compost facilities will increase. The amount of green waste that compost facilities receive is already maximized and it is unlikely to increase significantly in relation to introduction of yet to be utilized organic streams. This leaves food scraps, and to some extent biosolids, as the main feedstock that will increase as feedstock for composting. Food scraps are highly putrescible and typically arrive at a compost facility with no prior treatment or only passive gravity dewatering. Food scraps have a very high protein/carbohydrate/fat and moisture content and require significant adjustments to an operator's composting operation when introduced in higher ratios compared to other feedstock. It is the ratio of food scraps/biosolids to green waste in terms of receipt, storage and processing that is the central issue in determining the structural and operational controls necessary to address odor. This ratio plays a key role in the carbon to nitrogen ratio, density and moisture content that determines the ability of specific composting and operational methods to be effective in minimizing odor.

Solano County is located midway between the bay area and Sacramento. One compost facility in Solano County has a contract with the City of San Francisco and has been a partner in their ongoing, innovative programs to increase diversion, including a progressive food scrap collection and composting program from San Francisco restaurants. The facility has had odor issues previously with Ag-Bag and windrow technologies that it was implementing to compost its feedstock. To better respond to these complaints, the LEA implemented an after-hours odor response on-call program.

To address odor issues from composting food scraps (and to meet emission limitations imposed by the local Air Quality Management District), this facility introduced a new Engineered Compost System (ECS) aerated static pile system in November/December of 2009. The ECS system consists of special tarps placed over large static compost piles. Air is then drawn through the tarp and compost pile, filtered through a wood chip biological filter and exhausted into the air. Both the manufacturer and operator assured the LEA that it would address the odor issues that were increasing at the facility. Shortly after implementation, it became apparent that not only did the ECS not improve the odor at the ratio of green waste to food scraps being used, it rapidly made the odor worse as the unanticipated condensate created by the equipment quickly became an issue across the compost facility footprint and the high BOD of the discharge caused a large leachate collection pond to turn anaerobic. The LEA found itself quickly responding to an increased number of complaints from residents in the unincorporated area 3 miles or more away from the facility.

The operator took action to address the leachate generation and the anaerobic leachate pond, but it was slow and ineffective. Using the enforcement tools in effect in 2010, the LEA initiated progressive enforcement action resulting in the issuance of a stipulated corrective action order with the operator. This order required an immediate reduction in food scraps being received and composted at the facility, and required the operator to propose and implement immediate, short term, and long term operational and structural controls to address the odor issues. A trigger of two odor events in a thirty day period was established for additional reduction in food scrap volume, and a grace period was provided to allow an opportunity for any reduction to have an effect on the odor.

At the same time, the Solano County LEA began to research field odor measuring tools. The two most predominate methods are the field olfactometer, such as the Nasal Ranger, and the n-butanol scale. Both have pros and cons, but the Solano County LEA purchased a Nasal Ranger and attended "odor

school training” from the manufacturer of the device at our county offices.

The outcome of the stipulated corrective action order, odor assessment training, and our odor response protocol is that the facility implemented significant operational and structural changes to address odor. Implementation of the Order at the Solano County facility resulted in a 47% stepped down reduction in the total tons of food scraps received, stored and processed at the facility, along with implementation of other operational and structural controls, in an effort to address the ongoing odor emanating from the facility that was confirmed over time to be causing off-site odor impacts three miles away. Using the processes implemented by the Solano County LEA, the operator has reported at public meetings that they went from a facility that was causing odors to a state of the art facility. Tours have been provided to governing bodies and the facility was included at the annual CalRecycle Technical Training Conference.

To date, the operator has not completed all action required by the LEA, but progress has been made using the existing enforcement tools in regulation. The LEA continues to receive complaints and to respond accordingly. Appropriate action continues to be taken based upon the findings of the Registered Environmental Health Specialists assigned to our odor response program. Investigation includes determination if an odor is present, whether it is offensive, its location relative to potential impact to the complainant, determination if other odor sources may be contributing, and driving back to the composting facility. It also includes review and verification of weather data, including wind speed and direction using our own instrumentation in comparison with the facilities’ weather station.

Currently, the Solano County LEA needs no additional assistance in evaluating odor complaints to determine if they are a nuisance or not. We utilize the same professionalism in our solid waste program, as with any other environmental health program we implement, to determine if a violation should be issued for a complaint. Instead of developing some artificial standard of what a nuisance is and placing it into a process that can be and has been developed under existing regulation to limit the ability of the LEA to address odors, what would be extremely beneficial to the Solano County LEA would be for CalRecycle to provide specific definitive guidance on type of the treatment(s) required, including pretreatment such as digestion, and the operational and structural controls required for specific feedstock given its quantity and ratio.

With this background, the Solano County LEA provides the following comments:

COMMENTS:

1. The STOMP process is addressing the symptom and not the problem. Instead of addressing what constitutes a nuisance, guidance on what are the acceptable minimum structural and operational criteria for a compost operation at various ratios of different feedstock should be provided. For example, should there be a requirement for food waste to be digested prior to mixing into green waste at higher ratios? If so, what is that ratio? Is enclosed drainage under and around the compost piles required? If so, when, under what circumstances, etc. Anything less than this level of specificity will result in a demonstration project where the operator continually performs “research” on best management practices to address odors using the local community as the indicator. Note- while the C-CORP report provides much information, obviously there continues to be odor issues/concerns throughout the state, so this report in itself is insufficient to rely upon to address odor issues.
2. There is no baseline provided for comparison within the STOMP concept. The STOMP concept refers to odors that are part of the day to day operation of a well-run composting site. However, no baseline is provided for what an acceptable day to day operational odor is, or what constitutes a well-run composting site. CalRecycle can be the state leader by developing guidance for acceptable minimum structural and operational controls to be implemented at different feedstock ratios or characteristics to combat odor generation, rather than leaving it to the LEA and operator to have endless demonstration projects at a community’s expense. This is the single most important issue in addressing odor from composting.

3. The STOMP concept places the LEA in an untenable position that will end with a loss of credibility for the LEA, and eventually CalRecycle. It requires the LEA to make the decision that the operator has taken all “reasonable and feasible” operational action to minimize the odor, which is a completely subjective decision as no objective standard is given to the LEA to make such a decision. At the same time the STOMP limits the LEA as to what can be called an offensive odor by providing a fixed D/T. There are feasible and reasonable solutions, including partial enclosures, alternate composting methods that decrease odor but have impact on throughput allowances in order to maintain beneath emission caps, etc. Are the LEA’s to use a dollar amount? If so, shouldn’t the LEA’s then use this same “reasonable and feasible” criteria for our landfill oversight also?
4. The STOMP concept will dramatically impact the LEA’s ability to correct chronic odor issues occurring at a compost facility.
 - a. As demonstrated in the background above, adequate enforcement tools currently exist that allow the LEA to address and correct ongoing odor issues. There is also an existing appeal process in place associated with these enforcement tools to address any failure by the LEA to act appropriately. The suggested STOMP process only adds barriers to the LEA’s enforcement authority.
 - b. The STOMP adds additional steps that will provide opportunities for appeal of the LEA action by the operator, which can impact the ability of the LEA to affect quick abatement of the conditions causing the odor issue.
 - c. The STOMP concept creates too low of a standard to protect residents from poorly operated compost facilities. This includes extremely permissive D/T thresholds (see #5 below), the requirement that the odor must be found at the complainant’s residence at time of the investigation, and the need to find three violations in a 30 day period before implementation of any corrective action plan, and an increase in the odor D/T being deemed a minimization of odor impact. These parameters ignore other components that affect odor nuisance (character, duration, frequency,) and do not address the affect that weather or response time may have on the offensive odor’s location, or distance from the compost facility. It eliminates all professional reasonableness in completion of a thorough investigation to confirm the complaint.
 - d. The STOMP should designate each “day” is a separate violation and not 24 Hours to be consistent with all other regulations.
 - e. There is no trigger for the operator to go into the STOMP. While the STOMP is labeled as addressing chronic odor issues, in reality, an operator can enter into a STOMP and obtain the decreased odor standard (high D/T and high standard for LEA to verify an odor event) at any time, even before their current operations have been shown to cause an odor issue. The argument is made that an operator would not do this as to cost, but what is that cost? All an operator has to do is to develop a plan that identifies odor sources and what changes will be implemented if several odor events at or above 7 D/T or 15 D/T are detected, which is an extremely high standard for the LEA (or conversely low standard for the operator to be held to.)
5. The dilution to threshold ratio is inadequate to validate a true odor nuisance. CalRecycle needs to provide supporting information where a 7 D/T in urban and a 15 D/T in agricultural has been used by their agency or an LEA to affect improvement at a compost facility before adopting any such standard. It is Solano County LEA’s opinion that if these thresholds would have been in place, the LEA may not have been able direct improvement of a poorly operating facility creating a significant odor event 3+ miles from the facility. The odor was frequent and intense, but intermittent.
 - a. Odor nuisance is comprised not just of intensity. Duration, frequency and hedonic tone all contribute to an odor’s nuisance. The distance from the facility also should play a role and is not addressed. Is the D/T at property line of the facility or 3 miles away? Using a simple number for the D/T as a basis whether or not there is an odor nuisance is not

- acceptable and will result in offensive odors that impact the public not being addressed.
- b. As defined currently in the STOMP, a putrid odor with a 14 D/T in an agricultural area or 6 D/T in an urban area can occur 24 hours per day 7 days a week 12 months per year at any distance from the facility and not be considered offensive. Based on the proposed D/T values given, is it credible to say that this is an example of a well-run composting operation and an acceptable odor from such a facility?
 - c. The STOMP concept places too much weight on a field olfactometer to designate what is a nuisance complaint. The use of a field olfactometer has its limitations due to the conditions in the field and the process to calibrate one's sense of smell. Field olfactometers may not be the best instrument for infrequent, intermittent odors during cold weather conditions. They are a good tool, but should not be used as the solitary basis to decide an odor nuisance. Based on our research and field use, field olfactometers take time to progress through the odor threshold determination, are not as precise in cold weather, and are not as useful in detection of variable, intermittent odors. These are all conditions in Solano County when odors are most present. A strong, short duration, intermittent odor may not provide adequate time to determine the actual D/T levels that is impacting the public as a nuisance.
 - d. The dilution to threshold ratio given in the STOMP concept creates an environmental justice issue in that urban areas have a higher standard than agricultural areas impacted by commercial compost operations.

CalRecycle has asked the following questions:

- 1) What should be the trigger for the operator to go into a STOMP?

As currently written, no operator should be allowed to enter into the STOMP, as it is a decrease in the standards an operator is held to simply by identifying potential odor sources and developing a plan which may never be implemented. Once implemented, the operator is then allowed to adjust their operation to an undefined "reasonable and feasible" level, before the "minimization" is determined to be a raising (yes-increasing) the allowable odor by the operator changing the acceptable odor standard. This does not promote best management practices. Why not just start at a 30 D/T and avoid the cost to the LEA and operator as that is where the STOMP process currently proposed can lead and it would be more intellectually honest to the public? We all know that answer to this, as a 30 D/T of an odor is not acceptable, so why is the process built to push that direction?

If the STOMP is re-written to actually address chronic odor issues in a manner to cause improvement, then a trigger may be the issuance of a Notice of Violation by the LEA. In fact, the Solano County LEA disputes that an operator has to wait to address chronic odor complaints and implement the activity delineated in the STOMP at all. A progressive, well run facility will already have performed such an assessment of its operation and implanted structural and operational actions to reduce odors before they become an issue. A chronic odor condition results when the operator is poorly trained or does not understand their composting operation for the feedstock types, ratios, volume being received and/or composting equipment or technology being used. In either case, the operator should not have the standards lowered.

- 2) What should a normal odor response look like?

- Occur within 24 hours if not sooner.
- Contact the complainant to alert them that an investigation is likely to occur shortly or as soon as practical.
- Contact operator as soon as complaint received and investigation is going to occur.
- Investigate
 - The site of the odor complaint, typically the residence;

- The proximity of the complaint to determine odor movement, including areas of past complaints in a similar location;
- Other potential odor source
- The compost facility boundary
- If open, the compost facility itself.
- Investigator makes an independent assessment of intensity, quality, duration and offensiveness of the odor and its likelihood to have impacted the complainant(s). Tools, such as an olfactometer, can be u
- Obtain and review weather report and wind conditions before and during the complaint and investigation.

Based upon all this information, determine if a complaint can be validated and if an AOC or violation should be issued.

At the same time, a good odor response from the operator should include a designated compliance officer to respond to the complaints and determine activity at the compost facility at time of complaints, an accurate weather station, and a report to the LEA.

There should be some minimum level of training required of commercial compost operators that they understand composting. Often, landfill operators move into composting without an understanding, or new feedstock streams are introduced. Why is there not some minimum training required for these operators?

- 3) If not “reasonable and feasible”, what is the trigger to determine an adequate operation has been implemented.

This is a difficult issue as no guidance is provided to determine what is “reasonable and feasible” to address odor at different feedstock volumes and ratios, or types of composting operations. Basically, Calrecycle is asking the LEA’s to come up with a specific measure against a completely vague target. One trigger could be no offensive odors beyond a specified buffer zone. The zone would be based on uses around the facility and potential impacts to the public.

The Solano County LEA continues to implement its odor response protocol; use the judgment of professionals in the field during complaint inspection to assess all pertinent information to determine if an odor nuisance has occurred, and hold the operator accountable to continue to keep best management practices and good operations occurring at a facility where the operator has publicly admitted they did not understand the composting process and are improving as they go. The use of the Solano County LEA’s odor response protocol and existing enforcement tools on the book has resulted in modification to the compost operations in our county that was causing numerous odor complaints 3+ miles away from the facility. The operator now reports publicly that they are a state of the art facility and the facility was toured at this year’s CalRecycle annual training workshop. The Solano County LEA continues to receive and respond to complaints and take action accordingly based upon the findings of our professional staff during field investigation.

11/15/2012

Terry Schmidtbauer, Environmental Health Manager, Solano County Department of Resource Management, Environmental Health Division

All composting operations generate odor. The odor may negatively impact individuals’ breathing, and as such, it is critical that each composting facility have a well-designed and operated odor impact mitigating plan in place at all times. Additionally, an odor mitigating plan must be flexible and sensitive to the health and well-being of the facility’s neighboring citizens and communities.

-The proposed approach as provided at the October 31, 2012, workshop (copy enclosed) requires each

composting facility operator to have an Odor Impact Minimization Plan (OIMP) in place in concert with a Standard Threshold Odor Mitigation Plan (STOMP). The STOMP provides for the use of an olfactometer to measure Standard Odor Dilution-to-Threshold (SODT) ratio, which is proposed to be 7 Dilution-to-Threshold (D/T) when the facility is located in a non-agricultural zoned area and 15 D/T in an agricultural zoned area. The proposal may be reasonable but the process is subjective and will be extremely difficult to implement due to the ambiguities associated with measuring odors because individuals have varying thresholds in experiencing and tolerating odors. As such, it is strongly recommended that CalRecycle conduct a pilot program to verify the adequacy of the proposal for a period of 12 months before promulgation of the proposal. Due to numerous odor complaints, Sunshine Canyon Landfill may be a good candidate for conducting the recommended pilot program.

- When using the field olfactometer or similar device, there should be specific guidelines regarding the instrument's calibration and replacement of odor-filtered cartridges consistent with the manufacturer's specifications to ensure all measurements are consistent and accurate.

-The Air Quality Management Districts (AQMD) and Air Pollution Control Districts would also play a role in monitoring any odor complaints, and therefore, it is imperative that their input be incorporated into the draft proposal prior to the finalization of the draft regulation.

11/21/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

Issue 5: Regulatory coordination of publicly owned treatment works (POTW) accepting food waste and fats, oils and grease (FOG)

The Southern California Alliance of Publicly Owned Treatment Works (SCAP) has been working closely with the California Association of Sanitation Districts (CASA) on this issue and fully support its efforts to resolve this regulatory jurisdiction issue with CalRecycle.

The acceptance of hauled-in organic waste such as Fats, Oils, and Grease (FOG), food waste (source separated, etc.), vegetative food waste (cannery, food processing etc.), and others for anaerobic digestion at POTWs is a common practice and one which is steadily increasing as a management option for this valuable waste stream. Moving forward this practice will be an integral component of, and POTWs a key partner in, achieving the dual state objectives to provide 33% of the state's energy needs from renewable sources, and to recycle 75% of the solid waste generated in the state, both by 2020.

SCAP fully supports CASA's recommended adoption of the draft language establishing an exclusion for POTWs accepting vehicle-transported, anaerobically digestible material, provided they are in compliance with relevant provisions of their individual National Pollutant Discharge Elimination System (NPDES) permit or of their Waste Discharge Requirements (WDR), as applicable. It is our understanding that this regulatory approach is consistent with the recommendation of State Water Resources Control Board (SWRCB) Executive Director Tom Howard, as stated in his December 6, 2011 memo to CalRecycle's Director Carol Mortensen.

SCAP further believes the proposed exclusion is consistent with various Public Resource Codes, and will avoid unnecessary duplicative regulatory requirements from multiple jurisdictions.

SCAP acknowledges that, in accordance with SWRCB permit language, all such waste received will be kept in tanks and either pumped or slurried, and never placed on the ground or moved via bobcats or end loaders. Some use of screening, rock traps, grinder pumps, and the like will be employed prior to introduction to digestion in order to ensure the integrity of treatment. However, this material handling will be no different than what is already done at pump stations, the plant headworks, and through grit

removal. POTWs have always effectively managed such solid waste and standard operating procedures, as required by the SWRCB, will ensure proper handling of this waste.

We recommend that the regulation also exclude anaerobic digesters at a POTW which are dedicated to solely accepting hauled-in anaerobically digestible materials and which do not co-digest sewage sludge, as long as they are similarly regulated through the NPDES permit or WDR. Such facilities are not currently in operation but are likely to be, as POTWs explore additional options for energy production and waste recycling. SCAP further concurs with the recommendation that POTWs with anaerobic digestion remain in the excluded tier for Issue 7: Anaerobic Digestion Facility Permitting. *(This paragraph is also listed under Issue 7)*

10/10/2012

John Pastore, Executive Director, Southern California Alliance of Publically Owned Treatment Works

- Please provide a distinction between anaerobically digestible materials and anaerobically digestible wastes (emphasis added).
- Section 17896.5, Subsection (a)(1)(C) – The term “organic materials” needs to be defined.
- Section 17896.5, Subsection (a)(1)(C), Subparagraph 1.a.v – The proposed requirements need to be expanded to require a description of how the waste residuals remaining after the treatment are managed and/or disposed of.

Additionally, for the purpose of AB 939 waste disposal reduction mandate, the remaining waste residuals destined to disposal facilities need to be quantified and appropriately allocated to the jurisdiction of “waste origin.”

10/09/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

EHD/LEA staff concurs with the concept that anaerobic co-digestion at POTWs should be an excluded activity. POTWs are adequately regulated by the State Water Resources Control Board and Regional Water Quality Control Boards, both in terms of treatment plant effluent controls and via certification of plant operators. POTWs have generally demonstrated successful track records in controlling potential nuisance conditions associated with the handling and processing of highly putrescible materials. At this time, no justification for additional regulation by an additional State or local agency has been provided for review.

10/11/2012

Darrell Siegrist, Ventura County, EDH/LEA

CRRC does not support a blanket exclusion for the receipt and processing of organic material at POTWs' from Title 14 requirements. While it appears appropriate to exclude tank-to-tank transfer of FOG or pre-processed food waste slurries, the onsite processing of food waste at a POTW is a different case.

Food waste processing facilities have been consistently regulated by use of Full Solid Waste Facilities Permits, where the appropriate levels of environmental review and land use approval have occurred, and proper mitigation methods and controls are employed. Waste discharge requirements for POTWs, approved by the State Water Resources Control Board (SWRCB), largely do not address all of the potential impacts, nor maintenance of the State Minimum Standards required in Title 14, which may result from food material processing operations. This is particularly true given that acceptable levels of contamination in food material has yet to be defined; much of this “source separated” material is essentially mixed municipal solid waste.

10/10/2012

Mark Figone, State President, California Refuse Recycling Council

POTWs have been regulated primarily by the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCB) for many years. The operation of receiving, handling, and anaerobically digesting a pre-sorted and pre-processed solid organic waste transported by truck at a POTW is already covered by the SWRCB's regulatory oversight (as verified by SWRCB executive director Thomas Howard's December 6, 2011 letter to CalRecycle, and posted on CalRecycle's website). Requiring POTWs to take on a whole new set of regulations they currently do not need and are unfamiliar with, could discourage many POTWs from providing this unique local option for recycling anaerobically digestible organics.

Further, for a POTW to accept and anaerobically digest organic wastes, the practice would need to be cost-effective, providing a benefit to their ratepayers. If a POTW was able to anaerobically digest the non-wastewater organics separately from wastewater solids, instead of co-digesting, the digestate could be certified as organic. Conversely, due to federal regulations, the co-digested organics could not. The certified organic digestate would have a much greater value than the co-digested digestate, which could not be certified organic, and could tip the economics toward the POTW receiving the organics. We urge you to include POTW dedicated non-wastewater organics digesters, which are otherwise identically operated as and located beside wastewater solids-fed digesters, under your POTW exclusion. We look to our continued work in this area.

10/12/2012

Donald Gray, Supervisor of Process Engineering and Information Systems.

POTWs have been historically, and are becoming even more, actively involved in receiving grease and food waste to increase energy production in their anaerobic digesters. The State of California and all local jurisdictions within it are attempting to create as much renewable energy as possible. Receipt of this type of waste is increasing at POTWs in an effort to fulfill these visions and mandates.

The City of Fresno strongly recommends the adoption of the draft language creating an exclusion for POTWs that accept vehicle transported anaerobically digestible material. This is consistent with the recommendations of the State Water Resources Control Board and is consistent with various Public Resources Codes relative to unnecessary duplicative regulations.

Additionally, we concur with the recommendation that POTWs with anaerobic digestion remain in the excluded tier for Issue 7: Anaerobic Digestion Facility Permitting.

10/12/2012

Stephen A. Hogg, Assistant Director of Public Utilities

The acceptance of hauled-in organic waste such as Fats, Oils, and Grease (FOG), food waste (source separated, etc.), vegetative food waste (cannery, food processing etc.), and others for anaerobic digestion at POTWs is a common practice and one which is steadily increasing as a management option for this valuable waste stream. Moving forward this practice will be an integral component of, and POTWs a key partner in, achieving the dual state objectives to provide 33% of the state's energy needs from renewable sources, and to recycle 75% of the solid waste generated in the state, both by 2020.

CASA strongly recommends adoption of the draft language establishing an exclusion for POTWs accepting vehicle-transported anaerobically digestible material, provided they are in compliance with relevant provisions of their National Pollutant Discharge Elimination System (NPDES) permit or of their Waste Discharge Requirements (WDR), as applicable. CASA notes that this regulatory approach is consistent with the recommendation of State Water Resources Control Board (SWRCB) Executive Director Tom Howard as articulated in his December 6, 2011 memo to CalRecycle Director Caroll Mortensen. CASA also believes the exclusion is warranted, and consistent with various Public Resource Codes, so as to avoid unnecessary duplicative regulatory requirements from multiple jurisdictions.

CASA would like to reiterate that, in accordance with SWRCB permit language, all such waste received will be kept in tanks and either pumped or slurried, and never placed on the ground or moved via bobcats or end loaders. Some use of screening, rock traps, grinder pumps, and the like will be employed prior to

introduction to digestion in order to ensure the integrity of treatment. However, this material handling will be no different than what is already done at pump stations, the plant headworks, and through grit removal. POTWs have always effectively managed such solid waste and standard operating procedures, as required by the SWRCB, will ensure proper handling of this waste.

We recommend that the regulation also exclude anaerobic digesters at a POTW which are dedicated to solely accepting hauled-in anaerobically digestible materials and which do not co-digest sewage sludge, as long as they are similarly regulated through the NPDES permit or WDR. Such facilities are not currently in operation but are likely to be, as POTWs explore additional options for energy production and waste recycling. Ensuring Clean Water for California

CASA further concurs with the recommendation that POTWs with anaerobic digestion remain in the excluded tier for Issue 7: Anaerobic Digestion Facility Permitting.

10/9/2012

Greg Kester, Biosolids Program Manager, California Association of Sanitation Agencies

Please provide a distinction between anaerobically digestible materials and anaerobically digestible wastes (emphasis added).

-Section 17896.5, Subsection (a)(1)(C), Subparagraph 1.a.v – The proposed requirements need to be expanded to require a description of how the waste residuals remaining after the treatment are managed and/or disposed of. Additionally, for the purpose of AB 939 waste disposal reduction mandate, the remaining waste residuals destined to disposal facilities need to be quantified and appropriately allocated to the jurisdiction of “waste origin.”

11/21/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

Issue 6: Green Material Contamination

Comment:

- Section 17852, Definition – Expand to address concern listed under the “General Comment.”
- Section 17852, Subsection (a)(26), “Mixed Solid Waste.” – The existing definition refers to “non-organics” and “plastic.” These terms need to be clearly defined. Also, see the “General Comment.”
- Section 17852, Subsection (a)(32), “Physical Contamination” or “Contaminants” – Clearly define the terms of “hard plastic” and “film plastic” in concert with the “General Comment.”
- We recommend adding verbiage describing consequences and compliance requirements on the facility when there is an observed violation.

10/09/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

The preliminary draft language provided for review may reduce green waste contamination, however, because the draft language still allows a substantial amount of contamination where the contaminate is very light weight (e.g., plastic film, a common contaminate), the draft language may not be fully successful in addressing green waste contamination.

10/11/2012

Darrell Siegrist, Ventura County, EHD/LEA

CRRC supports an increase in the allowed contamination level for green material; we recommend a limit of 5% for inbound material, while restricting outbound material to 1%. A large proportion of green material

is collected through curbside programs throughout the State, the majority of which do not meet a 1% standard; waste audits in some jurisdictions indicate that contamination may be up to 14% in certain locations. A physical contaminant level of 5% does not present any significant increased threat to environmental health and more accurately reflects real-world conditions.

The establishment of a 0.1% contaminant level – while appropriate for the receipt of materials to be land applied in agricultural soils, or in beneficial reuse for erosion control – is unnecessary for many processors. In particular, material produced for use as feedstock for biomass, composting, or anaerobic digestion facilities would be subject to additional processing costs for little or no benefit. We believe a 1% contaminant level can be achieved in practice with a lesser financial burden, and is more appropriate for materials that will not be land applied.

10/10/2012

Mark Figone, State President, California Refuse Recycling Council

§ 17868.5. *Green Material Processing Requirements.* Proposed changes to this section are acceptable. However, there should be a standardized method for sampling feedstock for contaminant levels when the EA requests an operator to take a representative sample. If this becomes an enforcement issue a standardized method will protect the operator and provide the EA with a clearer line to determine a violation or compliance.

§ 17868.3.1. *Physical Contamination Limits.* Are there standardized methods for measuring physical contaminants in compost? What sampling procedures should be followed and what lab methods should be utilized to assure that all facilities are following the same protocols. Also, by allowing plastics and other physical contaminants in compost - particles < 4mm - what chemical constituents of concern might be found in finished compost? Heavy metals and pathogens have acceptable limits but has there been any determination of the environmental impacts that might occur from plastics leaching into the environment.

11/26/2012

Bill Prinz City of San Diego, Development Services Department

The BOS has the following comments on the revised regulations:

- Regarding the physical contamination limits on products derived from compostable materials (Section 17868.3.1(a)), the basis for physical contaminants “shall not contain more than 0.1% physical contaminants greater than 4 millimeters by weight” is not clear.
- Regarding the contamination levels of incoming feedstock (Section 17868.5), obtaining a “representative sample” of the incoming feedstock, especially from urban collected green materials is difficult because the material is not homogeneous.
- Recommend that composters have the option to certify their compost product with the US Compost Council Seal of Testing Assurance (STA) program in lieu of additional testing required under this section (refer to <http://compostingcouncil.org/tmecc>). The Test Method for the Examination of Composting and Compost (TMECC) provides detailed protocols for the composting industry to verify the physical, chemical, and biological condition of the composting process. Furthermore, since the STA test methods standard lowest limit is 0.5% contamination, it is recommended that CalRecycle’s regulation on the physical contamination limit on products derived from compostable materials should also match the STA standard test limit.

11/30/2012

Enrique C. Zaldivar, P.E., Director, City of Los Angeles, Bureau of Sanitation

Issue 7: Anaerobic Digestion Facility Permitting

We recommend that the regulation also exclude anaerobic digesters at a POTW which are dedicated to solely accepting hauled-in anaerobically digestible materials and which do not co-digest sewage sludge, as long as they are similarly regulated through the NPDES permit or WDR. Such facilities are not currently in operation but are likely to be, as POTWs explore additional options for energy production and waste recycling. Ensuring Clean Water for California

CASA further concurs with the recommendation that POTWs with anaerobic digestion remain in the excluded tier for Issue 7: Anaerobic Digestion Facility Permitting.

10/09/2012

Greg Kester, Biosolids Program Director, CASA

We recommend that the regulation also exclude anaerobic digesters at a POTW which are dedicated to solely accepting hauled-in anaerobically digestible materials and which do not co-digest sewage sludge, as long as they are similarly regulated through the NPDES permit or WDR. Such facilities are not currently in operation but are likely to be, as POTWs explore additional options for energy production and waste recycling. SCAP further concurs with the recommendation that POTWs with anaerobic digestion remain in the excluded tier for Issue 7: Anaerobic Digestion Facility Permitting. *(This paragraph is also listed under Issue 5)*

10/10/2012

John Pastore, Executive Director, SCAP

Comment:

- Sections 17896.1 and 17896.2 – Numerous references have been made to the term “organic material.” Please see “General Comment” and define the term “organic material.”

- Section 17896.1, Subsection (d) – In part, this Subsection states “.....However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter,” (emphasis added). Such an authority is far reaching and may negatively impact a local jurisdiction’s land use decision. As such the term “conflict” needs to be defined OR the statement should be revised to read “....However, no city, no county, no city and county, or special district may promulgate or enforce laws which are less restrictive than the provision of this Chapter.”

- Section 17896.15, “Drainage Control” – The proposed requirements should be expanded to prohibit any off-site drainage without a NPDES Permit.

- Section 17896.35, “Pre-Digestion Solid Waste”, Subsection (a)(1) – states, “in-vessel digestion operations shall remove solid wastes not placed in tanks for digestion within 7 days from the date of receipt” and (a)(2), states, “solid wastes shall be injected into the digester tanks or other water and air tight enclosed storage vessel within 8 hours from the time of receipt.”

The proposed language and time frames need to be clarified to provide clear and non-conflicting regulatory restrictions for the facility operator. Additionally, any outside storage of solid wastes containing putrescible materials in excess of 8 hours from the time of receipt needs to be prohibited.

- Section 17896.52, “Post Digestion Solids Handling” – As recognized by CalRecycle, not all in-vessel digestion technologies utilize anaerobic digestion. However, the proposed requirements under this section disregard this by requiring that all post-digested solid waste be “disposed” of without recognizing that, depending on the type of in-vessel technology, post-digested solid wastes may be used as feedstock

for other processes such as gasification to produce “renewable” products. Accordingly, provisions of this Section need to be revised to provide for the above.

Section 17896.53, Sampling Requirements – Combine (a) and (b) as both relate to time and location requirements regarding samplings of post-digested solids.

- We recommend adding general verbiage describing consequences and compliance requirements on the facility when there is an observed violation.
- Due to the hazardous byproducts (methane and hydrogen sulfide) of AD, the regulations surrounding it should not become less stringent by redefining AD as a transfer processing activity. Typical transfer processing facilities do not keep transfer materials on-site as long as AD facilities and do not allow for biological and biodegradable organic matter to be decomposed by bacteria on-site to create byproducts. Therefore, they do not have the same hazards as an AD operation.

10/09/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

EHD/LEA staff supports "Option 1", A stand-alone, fully-contained set of regulations addressing in-vessel digestion, for the following reasons:

- a. The existing oversight, operator certification, and demonstrated "track record" such as found in the POTW setting (see Issue #5) does not exist outside of the POTW setting.
- b. The issues and processes associated with digestion are significantly different than found in most currently regulated solid waste operations/facilities.
- c. Notwithstanding the ideal of minimizing duplication of regulatory language, a stand-alone set of regulations increases the clarity of, and operator certainty pertaining to, the applicability of various State minimum standards.

Also, the regulatory language should be constructed in a manner that very clearly defines the types of processes that qualify for regulation as a digestion process. In other words, if the consensus is to regulate only "typical" digestion of slurified solid waste in a sealed, enclosed vessel, the regulations should explicitly say so, so that later arguments pertaining to the applicability of these regulations to technologies such as a static pile process located in a building, bay, or other vessel are avoided.

10/11/2012

Darrell Siegrist, Ventura County, EDH/LEA

CRRC supports clarification that existing Transfer/Processing and Compostable Material Handling regulations are sufficient for the permitting of a large majority of current and proposed anaerobic digestion (or other in-vessel technologies) facilities. For the unique situations where thermophilic temperatures (>122°F) are not achieved, a definition of these type of operations could be added to this rulemaking package. In any event, the perception that current regulations are inadequate – or that draft regulations will provide an omniscient solution at some future date – will only confuse regulators, investors, and other stakeholders leading to delay in the progress of multiple projects that are either already underway in the planning process or soon will be.

Ultimately, some additional definitions and cleanup language is necessary for anticipating the variety of new technologies that may be part of the organic materials processing future, but not at the expense of impeding the growth of this nascent technology. We feel it is appropriate to produce a guidance document that outlines the proper use of existing regulations that can be applied to immediate permitting needs, while making the minor tweaks to regulatory language to include other technology options, including in-vessel aerobic and mesophilic digestion options.

10/10/2012

Mark Figone, State President, California Refuse Recycling Council

We interpret solid waste to be the solid equivalent to air emissions and wastewater discharge. In other words, until an industry/owner relinquishes control of that material/media it is not considered waste (ie. there is still value in the material). Therefore, we believe that the preprocessing of organic material by the material generator for any beneficial use should not be subject to the regulations intended to monitor waste disposal facilities. We are providing comments on the Anaerobic Digestion Facility Permitting regulations process to highlight the benefits of Anaerobic Digestion at a DC. Further, we are asking CalRecycle to include projects that "process their own material on their own site using Anaerobic Digestion" to the list of Excluded Activities. As discussed above, this model has significant environmental benefits over traditional models of hauling and disposing solid waste.

CalRecycle has ruled on a similar issue and issued a similar exemption as part of the current "Transfer/Processing Facility" requirements. Definitions and Related Provisions For Activities Not Subject to the Transfer/Processing Regulatory Requirements (17402.5): (c) Activities included in one of the following definitions are not subject to the requirements of [a Transfer/Processing Facility]...

(5) "Manufacturer" means a person or business entity that uses new or separated for reuse materials as a raw material in making a finished product that is distinct from those raw materials.

(6) "Regional Produce Distribution Center" means a distribution center that receives unsold produce (sometimes referred to as "pre-consumer") back from stores to which it originally sent the produce, for the purpose of transferring this produce to a compost operation or facility, or to a beneficial use. A regional produce distribution center would not include a site where produce is processed.

Note: CalRecycle provided the following rationale (Source: "Initial Statement of Reasons, Transfer/Processing of Putrescible Wastes, February 2002") for adding "Regional Produce Distribution Center" to the list of activities that are not subject to the Transfer/ Processing Operations and Facilities Regulatory Requirements: "A Regional Produce Distribution Center would provide convenience (trucks delivering fresh produce are available to back-haul) and economic benefits (trucks delivering fresh produce might return empty if not hauling unsold food waste) to stores, which should encourage high recovery rates. Since the proposed regulation requires a Regional Produce Distribution Center transfer the wastes it handles to a beneficial use, more waste from stores should be diverted from disposal. These activities, while handling materials that might be considered putrescible wastes, do not engage in the types of waste handling activities that are intended to be regulated by these provisions. The prohibition on processing should minimize public health, safety, and environmental issues at the centers."

This language and exemption hits at the core benefits of our current model. The memo did not seem to contemplate Anaerobic Digestion as an onsite possibility, so it specifically did not allow produce to be processed. The assumption was that produce would need to be processed via composting, requiring significant land and causing problems. Anaerobic Digestion solves these problems by delivering excellent economic and environmental benefits to the Distribution Center with no negative impact. Further, we believe that adding the Manufacturer language from above with modest revisions would also solve the same issue. Our process is using "new or separated for reuse materials as a raw material" to lower operating costs and increase the beneficial use of their unsold materials.

The exemption above has enabled the supermarket industry to consolidate their unsold food product and drastically increase composting participation. It has also allowed supermarkets to find innovative, clean and efficient methods to handle their own materials prior to disposal. We believe that a similar exemption

for onsite Anaerobic Digestion will allow supermarkets to further implement Anaerobic Digestion on-site as preprocessing tool to produce green energy and further minimize diesel trucks.

On-site Anaerobic Digestion pre-processing facilities allow the owners of organic materials to obtain as much beneficial use from their products before disposal. A corollary to this activity would be the industrial wastewater treatment systems employed by food processors across the State. These on-site Anaerobic Digestion plants allow the wastewater generators and owners to obtain as much beneficial use of their product through Anaerobic Digestion prior to disposal. It also provides a key service to the community by reducing the organics sent to disposal through the sanitary sewer and provides green renewable energy. These systems are closely regulated by the Air Management District, Regional Water Quality Control Board and the California Building Code to ensure that they are safe and do not impact the community around them. The same is also true for on-site pre-processing plants for solid organics.

We appreciate the opportunity to provide comments and appreciate your consideration of the exemption. We look forward to working together to achieve the best regulatory framework for California to support California's environmental and economic goals.

10/12/2012

Nick Whitman ,Founder, FEED Resource Recovery

17996.35 Pre-Digestion Solid Waste

It is unclear what is meant by (1) and (2). Eight hours or seven days?

17896.49 Visual Screening

We cannot put the land use designation into our CalRecycle permits. What is the purpose of this section, here?

17896.52 Post digestion Materials Handling

(b) If our AD technology does not meet PFRP (and metals), we move it directly to the compost piles. Testing of this material before it is composted would be laborious and expensive and unnecessary.

Best to just list whether or not the technology meets PFRP and not require testing until after composting.

10/22/2012

Linda Novak, Harvest Power

Section 17896.1, Subsection (d) – In part, this Subsection states “.....However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter,” (emphasis added). Such an authority is far reaching and may negatively impact a local jurisdiction's land use decision. As such the term “conflict” needs to be defined OR the statement should be revised to read “....However, no city, no county, no city and county or special district may promulgate or enforce laws which are less restrictive than the provision of this Chapter.”

-Section 17896.15, “Drainage Control” – The proposed requirements should be expanded to prohibit any off-site drainage without a NPDES Permit.

-Section 17896.52, “Post Digestion Solids Handling” – As recognized by CalRecycle not all in-vessel digestion technologies utilize anaerobic digestion. However, the proposed requirements under this section disregard this by requiring that all post-digested solid waste be “disposed” of without recognizing that depending on the type of in-vessel technology, post-digested solid wastes may be used as feedstock for other processes such as gasification to produce “renewable” products. Accordingly, provisions of this Section need to be revised to provide for the above.

- 17896.53, “Sampling Requirements” – Combine (a) and (b) as both relate to time and location requirements regarding samplings of post-digested solids.

-We recommend adding general verbiage describing consequences and compliance requirements on the facility when there is an observed violation.

-Due to the hazardous byproducts (methane and hydrogen sulfide) of AD, the regulations surrounding it should not become less stringent by redefining AD as a transfer processing activity. Typical transfer processing facilities do not keep transfer materials onsite as long as AD facilities and do not allow for biological and biodegradable organic matter to be decomposed by bacteria onsite to create byproducts. Therefore, they do not have the same hazards as an AD operation.

11/21/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

The BOS makes the following comments on the draft regulations:

- The difference of “Within-Vessel” composting (Section 17852(a)(41)) from the proposed “In-Vessel Aerobic Digestion” needs to be clearly defined.
- The proposed regulations do not clearly state which agency will regulate the “digestion process” if not CalRecycle.
- Regarding the pre-digestion of solid waste, the only guidance for handling of the “feedstock” is to contain it (Section 17896.35(a)). Will there be any guidance for pre-processing the feedstock such as contaminant removal, grinding, or other processing to make it amendable to anaerobic digestion?
- Regarding the handling of post-digestion solids or “digestate”, CalRecycle states that the material be delivered as “solid waste” (Section 17896.52(a)). The digestate material should not be categorized as “solid waste” as this may prohibit the digestate from being accepted at another facility (e.g., compost facility) for further processing.
- The proposed regulation does not mention regulations on biogas handling or provides reference as to which agency would regulate this portion of the anaerobic digestion process.
- Will CalRecycle be considering a streamlined “one-stop” permitting process for Anaerobic Digestion operations and facilities?

11/30/2012

Enrique C. Zaldivar, P.E., Director, City of Los Angeles, Bureau of Sanitation

Issue 9: Maximum metal concentrations consistency with federal regulations

Changing the metals to be more consistent with the FED EPA Bio Solids Rule does not make much sense. Most people are not using bio-solids in their garden or flower bed. Human contact with compost is much higher than with bio-solids. The rule should remain and let consistency suffer.

05/09/12

Robert McClellon, County of San Joaquin, Program Coordinator, Environmental Health Department

It is recommended to work towards reconciling the differences.

5/15/12

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force and Council Member, City of Rosemead

No Comments.

05/16/12

Bill Prinz, City of San Diego, Development Services Department

We have attempted to opine that these concentrations are set too high. We realize that these are the Federal Standards to allow sludge applications, but are they still too high for compost? Are these levels allowed for sludge because sludge disposal sites are further regulated? Our farms and parks and other

sites are not subject to further monitoring once the compost is applied. However, if it is pre-determined that these Federal Standards still apply to the safety of compost products, we can find consolation in the following:

1. Compost is a soil amendment and if applied and disked into the soil at agronomic rates, there will be a considerable dilution factor.
2. Compost discharge sites usually do not become building sites, due to many zoning laws. Thus, hazardous metals soil assessments will typically not be conducted. Thereby, compost will not typically have metals above the US EPA Regional Screening Levels for contaminated sites, even though some of the allowed levels in compost exceed the baseline levels for contaminated soils.
3. It will remain easy for composter to market their compost since they are allowed relatively high threshold for metals and no limits for other chemical contaminants. The only controls will be imposed by the user of the compost to assure quality prior to purchase or receipt of the material.

One of our operators is trying to get approvals for composting street sweepings to make a product. We request that CalRecycle propose some kind of discretionary ability for the LEA to make additional testing requirements of compost based on feedstock known risks and contaminants to deem a material as safe for the environment and allow it under permit terms and conditions. As potential compost feedstocks continue to grow in order to meet the mandated 75% diversion rate, this will continue to be problematic if we are limited to those analytical criteria currently contained in the regulations. For example, an area subject to a PCB spill, chlorinated hydrocarbons, radiation, or some known carcinogen that is heat tolerant could be of concern in finished product. The LEA currently has no tools in state regulation to allow us to require such specific testing when we have good cause to suspect contamination. I suppose we could try local ordinances, or try to induce an assembly person to introduce a bill, if a real problem ever manifests over this concern.

Run-off contamination from compost stockpiles has been a big issue at the Grimsley property located in San Benito County. Stormwater contamination programs are trying to address these issues. The Water Boards are concerned about the run-off or groundwater contamination from compost applications or stockpiles. Perhaps we should adjust our compost criteria to meet the requirements for Water Boards at the compost source itself. If we make compatible requirements for compost, then we don't have to worry about the run-off or groundwater infiltration levels. Our experience has been that most compost will still pass the water limits for these metals. Thus, compost use will not be severely impacted and will no longer be considered threats to water quality if suspended in run-off water.

May 22, 2012

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

The ESJPA supports revision of this standard to match the federal changes that were already adopted.

May 31, 2012

Mary Pitto, Program Manager, Environmental Services Joint Powers Authority

Recology agrees with the approach CalRecycle is taking on this issue and looks forward to continuing to discuss the details with Staff as regulatory language is developed and proposed to stakeholders.

6/1/2012

Rachel Oster, Director of external Affairs Recology

1. Please revise 14 CCR 17868.2(b) to allow alternative methods of compliance for metals to include agricultural materials in addition to green and food materials.
2. Please consider explicitly removing the metal concentration sampling requirements for animal manure composting operations as these are not biosolids by definition. Additionally, no metal

concentrations are present in these materials. The greater risk is viral, proteins, biological, hormone, or other antibiotic contaminants that are currently not analyzed at all.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

CRRC supports revision of the Maximum Metal Concentrations in current regulations to match Maximum Metal Concentrations in 503 CFR, as well as, clarification in regulation that composters must receive test results showing the material meets requirements prior to materials leaving the site. This is adequately contained in the wording that CalRecycle published on [May 1, 2012](#).

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

Issue 10: Clarify “processing” in agricultural material definition

Please ensure that this definition excludes spent hens from poultry or egg ranches so that animal-derived materials (i.e. carcasses) are not being incorporated into agricultural material compost products in direct conflict with the California Department of Food & Agricultural Code. This is particularly important if animal-derived products are incorporated into compost material since no labeling or testing requirements are specified for this material for protection of food supplies.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

Item #10 redefines Ag material. The only Ag composters we have are mushroom farms. They are very strict about bringing anything other than own feedstock. It is Ag material on the backend because it is leftover growth medium for their mushroom crops. The only this they add to it are the “stumps, which are mushroom stems and cap pieces that break off during harvesting. This is added to the spent compost which is then given away-after steam room pasteurization. It still seems odd that we try to regulate this industry simply because their compost produces odors. Anyhow, I think it would also be warranted to allow the LEA to waive any metals or pathogen sampling based on feedstock types and process consistency, especially after initial baselines are determined.

6/20/2012

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

WM supports the proposed changes that will clearly differentiate agricultural material from other forms of solid waste resulting from processed agricultural materials. WM supports the concept that Agricultural Material that is separated at the point of generation and has not been processed should be subject to a lower tier of regulation by CalRecycle. However, any processed agricultural material should be considered solid waste subject to a higher tier of CalRecycle Regulation.

7/2/2012

Charles A. (Chuck) White, P.E. Director of Regulatory Affairs/West, Waste Management

I also do not like the changing of the wording in Agriculture Material definition. Adding “waste” to that definition opens the flood gates to open interpretation of what is waste and what can be used as beneficial use. Also, adding the sentence “Agricultural material has not been processed in a way that alters its essential character as a waste resulting directly from growing plants or raising livestock or other animals for food, fiber and other purposes.” Opens the flood gates of what means altered. Does chopping lettuce into a salad change its essential character? Well, yes. This is giving whoever is pushing this definition a blank check to interpret whatever they want to interpret. The changes of these definitions would result in moving backward and not forward in what is sustainable. Farmers are stewards of the land, we know that if you don’t take care of the land it won’t take care of you. These changes will result in

higher cost to farmers here in California where profit margins are shrinking very rapidly due to many regulatory changes. Once Ag leaves an area it doesn't come back, and we are witnessing this happening to California. California used to be known to produce so much Agriculture commodities it should be considered its own little country by world standards, but that is no longer the case. We have dropped from the world standing as such.

7/31/2012

Johnny Massa, Comgro Soil Amendments Inc.

CRRC believes that clarification of the definition of agricultural material is needed and agrees with proposed language published by CalRecycle on [May 31, 2012](#), specifying that this definition should include only materials separated at the point of generation and which have not been processed or altered.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

Issue 11: Small-scale composting exclusions

- A. In Exclusion 4, please clarify that the 500 cubic yard limit includes only feedstock and active compost volumes. Finished compost and/or compost being used onsite (i.e., applied to the soil) should not be included in calculations.
- B. In Exclusion 4, please delete the requirement that feedstock be generated onsite. Small operations may not have the appropriate mix of materials onsite to create compost, and may need to import some material. Farms routinely "trade" feedstocks with one another, and acquire manures and other amendments so they can generate quality compost for their crops. They should not have to continue these practices "under the table."
- C. In regards to the 20% limitation on food or vegetative based feedstocks in Exclusion 4, this stipulation could dissuade small-scale commercial and institutional entities from onsite composting, especially if their predominant feedstock available is food or vegetative material. Hypothetically, this could require them to import non-food or vegetative based feedstock. The composter should be more interested in ensuring they meet their C:N ratio, and the arbitrary 20% limit on food or vegetative feedstock does not ensure the proper C:N ratio will be met. With no record keeping required, and feedstock volumes and ratios onsite subject to vary, this would be difficult to enforce. The 20% limit should be deleted.
- D. Comparing Exclusions 6 and 10 with one another, they appear contradictory, yet somewhat redundant. Having both of these exclusions is confusing. Please consider deleting Exclusion 6 and 10 in entirety, and revise Exclusion 4 so that all hypothetical excluded activities would be captured in the same exclusion, i.e., less than 500 cubic yards of feedstock and active compost onsite at any one time. As currently proposed, the listed exclusions are very similar, yet somewhat different. It remains too confusing to interpret which exclusion an activity could fall under, and it is infeasible to regulate activities down to single digit volumes.
- E. Following points B, C and D above, instead of limitations on feedstock origin and volumes for

small-scale composting activities, please consider incorporating a performance measure as a condition of Exclusion 4. For example, the activity is excluded so long as composting best management practices (BMPs) are implemented, including maintaining a proper C:N ratio and the activity does not cause a nuisance such as offensive odors or vectors. If the LEA receives a complaint about the activity, the LEA could inspect the activity to ensure it meets the performance standard. If it does not meet the performance standard, then the activity is not excluded and could be subject to enroll in a permit and inspection schedule. This provides an incentive for ALL micro-composters, including backyard composters and community gardens, to properly maintain their composting activities, whether their material was generated on or offsite, or whether they compost food or vegetative material. Micro-composting is an especially important and low-cost way for the State to meet its diversion goals, but the regulatory barriers need to be removed. Regulations need to be simple and enforceable. Performance requirements are the best way to encourage wide-spread micro-composting opportunities.

7/20/2012

Tyla Montgomery, P.E., Inika Small Earth

CRRC supports the proposed language changes published by CalRecycle on [June 19, 2012](#), to existing excluded activities. Of particular importance are provisions that specify all compostable materials must be generated onsite and all finished compost must be used onsite.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

Issue 12: SWP Application – “permitted maximum tonnage”

We strongly recommend that provisions be made stating that the “maximum amount of waste material that is expected to be received per day at a facility is limited to those quantities specified by the facility’s CEQA analysis or the facility’s host jurisdiction allocated tonnages, whichever is less.” The general public is not aware of the various types of permits that a solid waste facility operates under. The recommended provision would assist in having a limited consistency between the host jurisdiction permit and the CalRecycle issued solid waste facility permit thus enhancing communication with the facility’s neighboring communities.

Pursuant to the California Integrated Waste Management Act of 1989 (Assembly Bill 939 [AB 9369], as amended) and Chapter 3.67 of the Los Angeles County Code, the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities in Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities and to ensure a coordinated, cost-effective, and environmentally sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities- Los Angeles County Division, County of Los Angeles Board of Supervisors, City of Los Angeles, waste management industry, environmental groups, the public, and a number of other governmental agencies.

10/09/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

No significant issues identified.

10/11/2012

Darrell Siegrist, Ventura County EHD/LEA

CRRC supports that CalRecycle clarify that the total tonnage indicated in the Solid Waste Facility Permit Application (Form E 1-77) is the maximum amount of waste material that is expected to be received per

day, in addition to the other minor changes to the form.

10/10/2012

Mark Figone, State President, California Refuse Recycling Council

Issue 13: Vermiculture

No comment.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

I basically like it. It puts the vermiculture feedstock (food waste) under the T/P Regs, so it would have a 48 hour limit for its use as a growth media. After seeing the vermiculture operation in Sonoma, I could imagine a problem if food waste was brought in and was piled up for several days. This gets them in line with receiving only what they can immediately use and not more. We learned they can apply about 1 cubic ft. per week per worm bin. So this change in the regulation seems appropriate.

6/20/2012

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

WM supports the above-proposed changes to clarify that only the compostable materials that are directly a part of the vermiculture process are excluded from regulations. Compostable materials before or after the vermiculture process are subject to regulations.

7/2/2012

Charles A. (Chuck) White, P.E. Director of Regulatory Affairs/West, Waste Management

CRRC believes that regulatory oversight of vermicomposting – given its reemergence as a potential destination for the growing volume from food waste collection programs – needs to be strengthened. We support the proposed draft language published by CalRecycle on June 1, 2012, which clarifies that compostable materials and finished compost products at vermicomposting operations need to conform to current Title 14 requirements. We recommend that CalRecycle immediately develop guidance documents, which are much-needed, for Local Enforcement Agencies to clearly state their responsibilities in the regulation of vermicomposters.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

Issue 14: EA Notification Inspection frequency language

Ok

05/09/12

Robert McClellon, County of San Joaquin, Program Coordinator, Environmental Health Department

At this time we have no comment with the proposed revisions to the EA Notification inspection frequency language.

5/15/12

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee/ Integrated Waste Management Task Force and Council Member, City of Rosemead

No Comments.

05/16/12

Bill Prinz, City of San Diego, Development Services Department

We concur with this recommended change. We have a lot of notification operation Mushroom Farm

composters in our County. If they are situated and operated such that there are little to no complaints and they are not under an OIMP due to lack of complaints, we put them at an annual inspection frequency. However, if they are very large or have areas of concern, then they are under an OIMP and receive a quarterly inspection. Our fees are based on time spent at a facility, so the operator has an incentive to maintain compliance which results in a lower fee.

Our issue has been the way an operation can commence without a Land Use-Permit or other Planning Office approval. It is awkward for our department when an operation is still running a year or more after the initial notification and yet has failed to get the required permit. There should be some way to limit this arrangement which currently places the burden on the limited County resources to do the enforcement. Currently our enforcement options are limited.

Chris Rummel, County of Santa Clara, REHS, Senior Specialist Department of Environmental Health

Why do we need to revise this regulation? In Orange County, we routinely reduce the inspection frequency on our notification tier operations without being requested by operators and we're always worked in collaboration with CalRecycle. Why do we need to revise the current regulation and add CalRecycle concurrence for reduce frequency? This seems to be adding more regulatory oversight to these lower tier facilities. Would a new form be required to reduce the frequency? New procedures? An appeal process if EA and CalRecycle disagree?

If CalRecycle went ahead with the revision of this regulation, we would continue to work together with CalRecycle. Our concern with any revision to the notification tier would be to insure that our ability to inspect any of our notification tiers more frequently remains intact. Whenever we do have odor complaints at our notification tier facilities, our strongest enforcement tool is increasing the inspection frequency. Since we invoice per inspection at our notification tiered facilities, increased inspections cost the facilities money and therefore they are more responsive to facility issues.

5/30/2012

Kathryn Cross, County of Orange, Environmental Health Division

The ESJPA supports the flexibility of less frequent inspections where warranted.

May 31, 2012

Mary Pitto, Program Manager, Environmental Services Joint Powers Authority

While revising the inspection frequency to be consistent across EA Notifications would be beneficial, please consider that LEAs have established fee structures in local ordinance to reflect the time and materials necessary to accomplish the required regulatory oversight. In Imperial County, the cost basis for the regulatory fees established for 10 agricultural composting operations would no longer provide cost recovery of services required, but there will be no practical way to increase fees at this time since a fee ordinance/study was just completed. This may be the case for other LEAs as well.

The LEA should also be provided the opportunity to initiate request for the reduction or modification of inspection frequencies based on potential risks to public health, safety and the environment. This may be best determined by a Registered Environmental Health Specialist rather than the operator.

While CalRecycle input on making a determination to revise inspection frequencies at EA Notification operations may be beneficial, a formal CalRecycle concurrence process without staff decision criteria or an administrative hearing process for operators to seek remedy as a result of these decisions may create problems.

6/13/2012

Lars Seifert, Program Manager, Imperial County Public Health Department

CRRC supports the regulatory consistency that would be achieved with the resolution of this issue: to

include the following language, published by CalRecycle on [May 1, 2012](#), in Sections 17403.2, 17403.3, 17856, 17857.1, 17859.1, 17862, 17862.1: shall be inspected by the EA at least once every three (3) months unless the EA approves, with CalRecycle concurrence, an operator request for reduced inspection frequency. The EA shall approve a lesser inspection frequency if it will not pose an additional risk to public health and safety and the environment but in no case shall the frequency be less than annual. The EA shall submit, for concurrence, a copy of the operator request and EIA-proposed approval to CalRecycle.

8/2/2012

Mark Figone, State President, California Refuse Recycling Council

General Comments

Thank you for allowing the public to comment on the proposed regulations. I have the following 3 comments:

1) Nuisance definition, Section 17896.2. Under the definition for Nuisance, section B states that to be a "nuisance" it must "affect at the same time an entire community, neighborhood or any considerable number of persons". This is problematic for a number of reasons.

First, the term "at the same time". So if I am at one location and smell the operation, and then 1 hour later at a location 500 feet away a neighbor smells it, I interpret that to not qualify as a nuisance because it is not at the same time. Or what if the difference in time is 1 minute? It is not "at the same time". I suggest broadening this part of the definition to be "an event that in the period of 24 hours....". That way it covers the incidents where the wind is moving the odor or dust cloud around and impacts individuals at different times, but does not make the facility be considered a nuisance because of different events spread out over weeks or months. As it is, never will an event occur at the same exact time, and this is a standard that would never be able to be proved. It is too absolute.

Second, the term "an entire community, neighborhood, or any considerable number of persons". I suggest deleting the words "an entire community". It is just a subset of the following phrases and does not add anything. It is also a standard that can never be met. Is the "entire community" the city of Los Angeles with 2,500 square miles? So if one person in Torrance does not smell it, it does not meet the standard of "entire"? That will never occur. Conversely, if I have a collection of two houses together and there is nothing for 30 miles, can I argue that that is the "entire community". The words add nothing.

Then the words "any considerable number of persons". What is considerable? I think it should be set forth, not be left for the inspector to determine in the field. Again, there are different scenarios here. What if I am having an event at my home with 100 people and the neighboring compost facility has an event and the smells are smelt at the event. 100 people are there, that in any reasonable person's mind would be "considerable". But is that one event at one location enough to qualify as a nuisance? Again, I believe a reasonable person would say, "yes". But there is no way for the Operator to know that event was going to occur, or to reasonably make corrections or changes for these infrequent types of events. But it would still be a nuisance.

How about 4 people at the one location? I would argue that that could be considerable, but because they most likely would be colluding together (wife, husband, and children), it should not be considered a report of 4 but a report of 1. Plus the odor event may not have even occurred, they just are making it up because they don't like the composting. But 4 people at different locations (homes, parcels, lots, etc.), for that I would say would be "considerable", because they all would have to make the complaint and collusion would be much less likely. And for it to be collusion, then some of the 4 would have to be misstating the truth.

Then the question is verification. What is to say that these considerable number of people make a report,

does it need to be verified by someone in government to make it valid? Or is simply the report by the 4 enough to make it a nuisance that the EA would be required to enforce? The problem is that these events can be fleeting or they can be long term, lasting for hours. But there is no way to know at the outset what it will be. Sometimes, the reporter may not even call in the complaint until the odor/dust has past. That makes it impossible for an EA to confirm. In addition, you have the situation where the true nuisance has occurred, and the resident just didn't phone in. In addition, if the requirement is that the EA must confirm it, it becomes unworkable immediately. This forces the EA to drop everything to run out on every complaint; in the situation of a composting facility in the Sacramento Valley, remote from Sacramento but enforced by Sacramento's CalRecycle, it would take at the least 2 hours for the inspector to get there if he dropped everything. The event usually had passed by then. Does this make it not a nuisance? Of course not. It just means that the more remote a facility is, the harder for the EA to verify each and every complaint.

To solve these issues, I suggest the following wording to replace this this section of Nuisance: "in a single day affects at least four unrelated individuals located at 4 different homes, parcels, or lots, and the event is verified by an employee of any local, state, or federal governmental agency and reported to the EA, or in a single day affects more than 10 mostly unrelated people, at the same home, parcel, or lot and is reported to the EA."

2) Major Nuisance. I suggest that the regulation make a definition for what would be considered a "Major Nuisance". This would be any Operation that has 3 or more Nuisance events in any six months. This is my understanding of the Bay Area's (and other air pollution control districts) standard for nuisance. It should be reiterated here.

3) Disposal of air/vapor from the in-vessel composting and Aerated Static Piles. This proposed rule addresses the solid side of the equation but does not address the air space of the vessel and how those contaminated vapors are disposed of. That air space is the stuff that will cause nuisance complaints and contain the organic products of the decomposition. It must be addressed. It can't just be opened up to the atmosphere under the guise that it is clean air. It will be smelly. Everyone knows that. I suggest that the rule have a section on the disposal and destruction of these vapors. I suggest the wording: "All in-vessel composting vessels shall be equipped with a vapor recovery system with a 95% collection efficiency, operating at least 98% of the time *{this allows for downtime of 7 days/year}*. Before opening any in-vessel composting vessel or similar vapor tight vessel, the vessel shall be flushed with at least 4 volumes of the vessel volume with clean air, with the flushed volume of contaminated gas routed via the vapor recovery system to either a carbon canister system with a 95% destruction efficiency or routed to a thermal oxidizer, flare, or heater for destruction by flame. All vapors recovered from an ASP shall be routed via the vapor recovery system to either a carbon canister system with a 95% destruction efficiency or routed to a thermal oxidizer, flare, or heater for destruction by flame"

This is just like the vapor recovery systems at your corner gas station, they are not expensive, are current technology, so it is not an unreasonable request.

9/15/2012

Bruce Falkenhagen, San Luis Obispo, CA

As previously indicated by the Task Force and several occasions starting with our letter of August 13, 2008 (copy enclosed), there is a clear need for CalRecycle to define the term "organics", "compostable organics", "non-compostable organics" and "inorganics". These terms are being used by CalRecycle throughout the regulatory revisions to Titles 14 and 27 and, as such, need to be clearly defined by regulation.

10/09/2012

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead

DISCUSSION OF POTENTIAL OPTIONS FOR THE ORGANIC DIVERSION FACILITIES SITING PROJECT (STRATEGIC DIRECTIVE 6.1)

On behalf of the Los Angeles County Solid Waste Management Committee/Integrated Waste Management Task Force, I would like to commend the California Integrated Waste Management Board (Waste Board) for its efforts in promoting environmentally beneficial alternatives to reduce the disposal of organics. However, as listed below, we have a number of concerns regarding the Waste Board's Directive 6.1 and its staff report for Item 11 of the June 17, 2008, Waste Board meeting. On June 10, 2008, this item was considered by the Waste Board's Strategic Policy Development Committee without addressing concerns expressed by stakeholders.

Pursuant to Chapter 3.67 of the Los Angeles County Code and the California Integrated Waste Management Act of 1989 (AB 939, as amended), the Task Force is responsible for coordinating the development of all major solid waste planning documents prepared for the County of Los Angeles and the 88 cities within Los Angeles County with a combined population in excess of ten million. Consistent with these responsibilities, and to ensure a coordinated and cost-effective and environmentally-sound solid waste management system in Los Angeles County, the Task Force also addresses issues impacting the system on a countywide basis. The Task Force membership includes representatives of the League of California Cities-Los Angeles County Division, the County of Los Angeles Board of Supervisors, the City of Los Angeles, the waste management industry, environmental groups, the public, and a number of other governmental agencies.

We would like to offer the following comments/concerns regarding your staff report on options for siting of organic diversion facilities as well as the Waste Board Strategic Directive 6.1.

1. The Waste Board needs to define the terms "Organic" and "Compostable Organic"

The term "organic" is not defined by statute or regulation. Webster's Dictionary defines the term "organic" as: *"of, relating to, or derived from living organisms"* and *"of, relating to, or containing carbon compounds."* As such, based on the Statewide Waste Characterization Study released by the Waste Board in December 2004, the "organic" fraction of solid waste disposed in California landfills ranges between 70 and 80 percent.

The June 17, 2008, Waste Board staff report states that *"Organic materials comprise over 30 percent of the waste stream disposed in California landfills."* This statement is inconsistent with the Waste Board's 2004 Statewide Waste Characterization Study as well as the staff report that was presented to the Waste Board on December 11, 2007. In that report, staff indicated that *"Compostable organic materials comprises approximately 25 percent, or about 10 million tons, of what is disposed in landfills annually, and paper and woody portion of Construction & Demolition debris constitute another 13 or so million tons."* Thus, it appears that Waste Board staff made a distinction between the terms "organic" and "compostable organic," but did not make an attempt to define the terms.

The terms "organic" and "compostable organic" materials need to be clearly defined to avoid confusion among the legislature and regulatory bodies, regulated communities, and local governments that ultimately have to bear the cost. Furthermore, there is a need for the Waste Board to reexamine its Strategic Directive 6.1, which calls for 50 percent reduction in the amount of "organics" being disposed in landfills by 2020. Based on the December 11, 2007, Agenda Item 15, it appears that the goal is focused on the composting/diverting of source separated streams, such as green waste, food waste, manure, etc., and not the total "organics" currently being disposed in landfills. If the latter is true, jurisdictions in California may be faced with achieving a mandatory diversion rate of approximately 85 percent by 2020.

2. The Waste Board needs to consider the findings of State and local efforts with regards to conversion technology

The June 17, 2008, Waste Board staff report indicates *"Organic diversion facilities include compost, conversion technology, chipping and grinding, and transfer stations."* The Task Force commends the Waste Board for its recognition and inclusion of conversion technology into the organic diversion facilities category. However, we are disappointed with the Waste Board's staff report and recommendations which

fail to recognize the findings of (a) the Waste Board's own three-year study on conversion technologies conducted pursuant to AB 2770, Chapter 740 of the 2002 State Statutes; (b) the conversion technology efforts by the County of Los Angeles; (c) the State Bioenergy Action Plan; and (d) the State Interagency Bioenergy Working Group. Unfortunately, these findings were not considered by the Strategic Policy Development Committee on June 10, 2008. We strongly believe that the Waste Board needs to consider these studies and efforts prior to any further action. This reevaluation will further substantiate that the Waste Board must place a greater reliance on the development and siting of conversion technology facilities rather than focusing on "soft" solutions such as forming more committees and conducting unnecessary duplicative studies.

8/13/2008

Margaret Clark, Vice-Chair, Los Angeles County Solid Waste Management Committee, Integrated Waste Management Task Force, Council Member, City of Rosemead