

Guidance: Review and Approval of Alternative Measurement Protocol Proposals

CalRecycle developed these guidelines to assist Enforcement Agencies (EA) and facility operators with submittals of proposed alternatives to the organic waste measurement protocols [see 14 CCR Chapter 3, Article 6.2, section 17409.5.9(a)].

This guidance was developed by CalRecycle as a courtesy for informational and example purposes only. Use of this guidance is optional and is not a regulatory requirement. In the event of any conflict with this guidance or information herein, applicable statutory and regulatory provisions shall control.

This guidance and information herein are based on known facts and legal authority as understood by CalRecycle at the time of release. Any analysis, guidance, or other information herein may be subject to change based on changed facts or legal authority, actual or understood, subsequent to the publishing of this guidance.

The provision of this guidance and any analysis or other information herein shall not be construed as a waiver of any rights or remedies available to CalRecycle. Users are encouraged to seek the assistance of legal counsel to comply with applicable state law based on their pertinent facts and circumstances.

CalRecycle makes no representation that use of this guidance will ensure compliance with regulatory requirements. The user assumes all risk and CalRecycle accepts no responsibility or liability to any person because of the use of, or reliance upon, this guidance or the information herein.

Background

SB 1383 Regulations are effective on January 1, 2022.

SB 1383 regulations outline clear state minimum standards for organic waste measurement protocols for:

- Transfer/Processing Facilities and Operations
(See 14 CCR sections 17409.5.2–17409.5.8)
- Compostable Material Handling Facilities and Operations
[See 14 CCR section 17867(1)(16)]
- In-Vessel Digestion Facilities and Operations
(See 14 CCR section 17896.44.1)

If an operator proposes to use a different measurement protocol, the operator must submit a site-specific alternative measurement protocol proposal to the EA for approval and CalRecycle for concurrence prior to implementing a different protocol.

List and Summary of Regulation Sections that Reference Alternatives to Measurement Protocols

(Refer to the full sections for a complete description of the regulatory requirements.)

EAs May Approve Alternative Measurement Protocols (Transfer/Processing)

The EA may approve, with concurrence from CalRecycle, alternative measurement protocols, if the operator demonstrates that the alternative measurement protocol will be as accurate as the measurement requirements. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article. [See 14 CCR sections 17409.5.2–17409.5.5, 17409.5.7–17409.5.8]

EAs May Approve Substitutions to Sampling and Measuring Requirements (Transfer/Processing)

The EA may approve, with written concurrence from CalRecycle, substitutions to requirements to sample and measure specific types of organic waste that are designated for recovery with a quality standard required by a receiving entity (person, end-user, or solid waste facility or operation). The quality standard shall meet the requirements in Section 17409.5.9(c)(1)(A) through (G).

EAs May Approve Accurate Alternative Measurement Protocols (Composting Regulations)

The EA may approve, with written concurrence from CalRecycle, alternative measurement protocols to the requirements if the operator demonstrates that the alternative measurement protocol will be as accurate as the measurement requirements. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article. [See 14 CCR section 17867(a)(16)(A) and (B).]

EAs May Approve Accurate Alternative Measurement Protocols (In-Vessel Digestion)

The EA may approve, with written concurrence from CalRecycle, alternative measurement protocols if the operator demonstrates that the alternative measurement protocol will be as accurate as the measurement requirements. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article. [See 14 CCR section 17896.44.1 (a)(1)–(2).]

Data Gathering to support Site-Specific Alternative Measurement Protocol (AMP) Proposals

A proposed AMP shall meet the requirements described in either 14 CCR section 17409.5.9(a), 17409.5.9(c), 17867(a)(16)(E), or 17896.44.1(d).

An operator could implement a study to gather data regarding effectiveness of an AMP. The operator should request permission from the EA to do a study, as there may be some operational changes which could trigger a permit action. The site-specific AMP study proposal may include information such as a list of responsible parties for the study and chain of command, a time frame of the study, and any operational changes required during the study.

If the study shows the AMP is effective, then the study and any data can be submitted to EA for approval.

Then after CalRecycle concurrence, the AMP can be fully implemented. Please note, conducting a study to determine effectiveness of the AMP does not relieve the operator from complying with the applicable measurement(s) requirements in the meantime.

Substituting for an Existing Quality Standard

[See 14 CCR section 17409.5.9(c)]

Alternatively, an operator may propose to substitute certain measurement requirements with an existing quality standard required by the receiving entity (person, end-user, or solid waste facility or operation) if it is determined that the quality standard meets the following:

- A. The receiving facility or end user requires the operator to demonstrate that the presence of incompatible materials is less than or equal to the level of incompatible materials specified in Section 17409.5.8(a).
- B. The receiving facility or end user requires the operator to demonstrate the presence of incompatibles through sampling.
- C. The required sampling protocol accurately reveals the percentage of incompatible material by weight.
- D. The end user and the operator have a contract or written agreement specifying the sampling protocol and the maximum level of incompatible materials is in place.
- E. The operator makes available the contract or written agreement to the EA for review.
- F. The sampling protocol is at least as effective as the sampling required in Sections 17409.5.2, 17409.5.4, and 17409.5.8.
- G. The operator allows the EA to observe sampling upon request.

Submission, Approval, and Implementation of AMP

Upon receipt of any necessary data, description, and other information, the EA will determine whether the AMP proposal is as accurate as the measurement requirements described in 14 CCR, section 17409.5.9. An AMP proposal submitted to the EA may include:

- A. A detailed description of the AMP, such as alternatives to sampling frequency, sample size, or methodology
- B. Method references could be included, if available (i.e., operator and regulator contacts from other facilities within California and/or other states where the alternative method have been/are used)
- C. Data collected from a study (if a study was completed)
- D. A detailed description of how the alternative measurements meet the required quality standards (if substituting for an existing quality standard)

If the EA approves the AMP, then the approved AMP should be forwarded to CalRecycle with a request for concurrence. Prior to the EA allowing implementation of the AMP, the EA must be in receipt of CalRecycle's concurrence.

EAs are encouraged to contact CalRecycle permitting [Point of Contact staff](#) to request consultation during the review of a submitted AMP.

Processing Approval for Changes to a Facility's Design and/or Operation to Implement an AMP

The operator shall keep a record of their approval of alternatives in their operating record for:

- Transfer/Processing Facilities
See 14 CCR [section 17405.0](#)
- Compostable Material Handling Facilities and Operations
14 CCR [section 17853.0](#)
- In-Vessel Digestion Facilities and Operations
14 CCR [section 17896.16](#)

Additionally, the operator should refer to 27 CCR Section 21620 to initiate the process of making a proposed change to the design or operation as a result of the AMP.

The operator may consider a proposed change to be a minor change if all criteria set forth in subdivisions 27 CCR section 21620 (a)(1)(A)–(D) are met. If the criteria are met, then the operator shall notify the EA within 30 days after the change has been made [see 27 CCR section 21620 (a)(1)(F)].

If a proposed change does not qualify as a minor change, then the operator shall file an amendment to the Report of Facility Information (RFI) with the EA to incorporate the changes [see 27 CCR section 21620 (a)(2)].

During the next permit review, the EA shall review the minor change and the record of alternative approval(s) to determine whether it should be incorporated into the RFI.

More detailed guidance and resources regarding permit processes can be found in CalRecycle's [Permit Toolbox](#) webpage.