

PROPOSED REGULATION TEXT

Illegal Disposal Emergency Regulations
Waste Permitting, Compliance, and Mitigation Division

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY
CALIFORNIA CODE OF REGULATIONS

Note: Amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions from the existing regulatory text. The symbol “* * * *” means that intervening text not proposed for amendment is not shown.

TITLE 14.

DIVISION 7.

AMEND

CHAPTER 3, ARTICLES 6.0, 6.2, 6.3.

CHAPTER 3.1, ARTICLES 1, 2, 7, 8.

CHAPTER 3.2, ARTICLES 4, 6.

CHAPTER 5, ARTICLE 4.

Amend sections 17402, 17414, 17414.2, 17852, 17854.1, 17869, 17896.45, 18302, 18303, 18304, and 18304.1, California Code of Regulations, title 14.

Adopt sections 17410.5, 17862.3, 17868.6, and 17896.62, California Code of Regulations, title 14.

CHAPTER 3. Minimum Standards for Solid Waste Handling and Disposal

ARTICLE 6.0. Transfer/Processing Operations and Facilities Regulatory Requirements

Section 17402. Definitions.

(a) For the purposes of these articles:

(0.4) "Compostable Material" has the same meaning as section 17852(a)(11).

(0.5) "Consolidation Sites" means facilities or operations that receive solid waste for the purpose of storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities. Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities.

(1) "Contact Water" means water that has come in contact with waste and may include leachate.

(1.5) "Contamination" or "Contaminants" has the same meaning as "prohibited container contaminants" as defined in Section 18982(a)(55).

(2) "Covered Container" means a container that is covered to prevent the migration of litter from the container, excessive infiltration of precipitation, odor and leachate production, and to prevent access by animals and people; thereby controlling litter, scavenging, and illegal dumping of prohibited wastes. Covers may include, but are not limited to, tarpaulins or similar materials.

(3) "Direct Transfer Facility" means a transfer facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 150 tons of solid waste and meets all of the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator;

(B) only handles solid waste that has been placed within covered containers or vehicles prior to entering the facility and that is transported in vehicles owned or leased by that same operator;

(C) the facility does not handle, separate, or otherwise process the solid waste;

(D) no waste is stored at the facility for more than any 8-hour period;

(E) solid waste is transferred only once and directly from one covered container or vehicle to another covered container or vehicle so that the waste is never put on the ground or outside the confines of a container or vehicle, before, during, or after transfer. Direct transfer would not include top loading trailers where the solid

waste actually leaves the confines of the collection vehicle and is suspended in air before falling into a transfer vehicle;

(F) all of the contents of the original transferring container or vehicle must be emptied during a single transfer; and

(G) any waste that may unintentionally fall outside of the containers or vehicles, is promptly cleaned up and replaced within the container or vehicle to which it was being transferred.

(4) “DTSC” means Department of Toxic Substances Control.

(5) “EA” means enforcement agency as defined in PRC section 40130.

(6) “Emergency Transfer/Processing Operation” means an operation that is established because there has been a proclamation of a state of emergency or local emergency, as provided in Title 14, Division 7, Chapter 3, Article 3, sections 17210.1 (j) and (k) and which meets all of the following requirements:

(A) the operation handles only disaster debris and other wastes, in accordance with section 17210.1(d), during the disaster debris recovery phase; and

(B) the location does not currently have a solid waste facility permit;

(C) if the operation accepts, processes, or stores hazardous or household hazardous waste, then these activities must be in compliance with DTSC standards or standards of other appropriate authorities or agencies.

(6.1) “Fines” means material of a soil or sand consistency remaining after processing of solid waste that cannot be sorted further and includes a variety of organics or inorganic material.

(6.5) “Gray Container Waste” or “Gray Container Collection Stream” means solid waste that is collected in a gray container that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the gray container as specified in Section 18984.1(a) and (b).

(7) “Hazardous Wastes” means any waste which meets the definitions set forth in Title 22, Section 66261.3, et seq. and is required to be managed.

(7.5) “Incompatible Material” or “Incompatibles,” means human-made inert material, including, but not limited to, glass, metal, plastic, and also includes organic waste for which the receiving end-user, facility, operation, property, or activity is not designed, permitted, or authorized to perform organic waste recovery activities as defined in Section 18983.1(b) of Article 2, Chapter 12.

(7.6) “Land Application Activity” has the same meaning as section 17852(a)(24.5.1).

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code; and Section 39730.6, Health and Safety Code.

ARTICLE 6.2. Operating Standards

Section 17410.5 Material Sent for Land Application.

(a) Material that is sent offsite for land application must be sampled to verify it meets the requirements of section 17852(a)(24.5) prior to the material leaving the site.

(1) The facility or operation shall conduct one composite sample of the initial stockpile of material that is ready to be sent for land application. For each subsequent 5,000 cubic yards stockpiled, the facility or operation shall conduct a minimum of one composite sample of that material ready to be sent for land application. If the facility or operation produces less than 5,000 cubic yards of material in a 12-month period, the operator shall conduct at least one sample of material ready to be sent for land application.

(2) Sampling results shall be provided to the person receiving the material for land application.

(b) Fines shall not be sent offsite for land application.

(c) Any other material that does not meet the land application requirements of section 17852(a)(24.5) shall not be sent offsite for land application. The material shall be reprocessed onsite, sent offsite for further processing, or sent to disposal.

Authority cited: Sections 40502, 43020, 43021 and 44000.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 44000.5, Public Resources Code.

ARTICLE 6.3. Record Keeping Requirements

Section 17414. Record Keeping Requirements.

(i) The operator shall record and maintain the following records regarding material that is sent offsite for land application, including at a land application activity:

(1) The total volume in cubic yards and weights of the material sent offsite each day.

(2) The test results showing that the material met the physical contamination, maximum metal concentration, and pathogen density limits in that material sent offsite to be land applied required by section 17852(a)(24.5)(A).

(3) The delivery date, volume in cubic yards, weight, and destination address where material was sent.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17414.2. Recordkeeping and Reporting Requirements-- Organic Waste Recovery.

(b) The operator shall record and maintain the following records regarding compostable material that is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation:

(1) The level of incompatible materials in that material as measured pursuant to 17409.5.8; and

(2) The total weights of that material per day.

(3) For material that is sent offsite for land application:

(A) The total volume in cubic yards and weights of the material sent offsite each day.

(B) The test results showing that the material met the physical contamination, maximum metal concentration, and pathogen density limits in that material sent offsite to be land applied required by section 17852(a)(24.5)(A).

(C) The delivery date, volume in cubic yards, weight, and destination address where material was sent.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code; and Section 39730.6, Health and Safety Code.

**CHAPTER 3.1. Compostable Materials Handling Operations and Facilities
Regulatory Requirements**

ARTICLE 1. General

Section 17852. Definitions.

(a) For the purposes of this Chapter:

(15) "Disposal of compostable material and/or digestate" means:

(A) 1. the final deposition of compostable material and/or digestate on land, including compostable material or digestate commingled with inorganic or non-

compostable material, unless excluded from this Chapter 3.1 pursuant to section 17855;

2. storing or stockpiling more than 200 cubic yards of compostable material, other than stabilized compost as defined in section 17852(a)(36) that meets the maximum metal concentration requirements of section 17868.2, on a parcel of land for more than ~~30 days~~ 7 days, except as provided in subdivision (A)3.; or
3. storing or stockpiling more than 200 cubic yards of agricultural material, green material, or compost for more than twelve months on a parcel of land that is zoned for agricultural uses, unless the EA, after consultation with the applicable 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.

(B) Disposal of compostable material does not include the use of compostable material:

1. for beneficial reuse at a solid waste landfill pursuant to Title 27, California Code of Regulations, section 20686; or
2. for mine reclamation in accordance with applicable law.
3. for land application as defined in section 17852(a)(24.5) and consistent with the requirements described in section 17862.3.
4. as specified in section 17852(a)(24.5)(B).

(24.5) "Land Application" means:

(A) The final deposition of compostable material and/or digestate spread on ~~any~~ a parcel of land, including land zoned only for agricultural uses, ~~under the following conditions: as provided in Section 17862.4.~~

- ~~1. On and after January 1, 2018, the compostable material and/or digestate does not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters), as specified in section 17868.3.1, at the time of land application;~~
- ~~2. The compostable material and/or digestate meets the maximum metal concentrations, as specified in section 17868.2, at the time of land application;~~
- ~~3. The compostable material and/or digestate meets the pathogen density limits, as specified in section 17868.3(b)(1), at the time of land application; and~~

4.

~~a. On land not zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than once during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the Regional Water Quality Control Board, may approve alternative application frequencies and depths, if the EA after such consultation determines that the alternatives will not adversely affect public health and safety or the environment.~~

~~b. On land zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than three times during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality, may approve alternative frequencies and depths, if the EA after such consultation determines that the alternative will not adversely affect public health and safety or the environment. The Department shall coordinate all EA requests for consultation with the California Department of Food and Agriculture.~~

~~5. Verification of compliance with this subdivision must be provided to the EA upon request.~~

(B) This subdivision (a)(24.5) does not apply to The following are not land application and not deemed to be illegal disposal:

1. the use of compost produced, including amendments and additives, in compliance with Chapter 3.1 and/or 3.2 of this Division,
2. the use of compostable material and/or digestate for gardening or landscaping on a parcel of land 5 acres or less in size that receives less than 4,040 cubic yards of material during a 12-month period,
3. the final deposition of compostable material and/or digestate spread on land by a Federal, State, or local government entity, provided the material is applied in accordance with applicable law,
4. the final deposition of agricultural by-products material spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board pursuant to Waste Discharge Requirements, a Waiver of Waste Discharge Requirements, a Resolution, or other issued requirements from the State Water Resources Control Board or a Regional

Water Quality Control Board having jurisdiction, provided this final deposition does not adversely affect public health and safety or the environment.

5. the beneficial reuse at a solid waste landfill pursuant to Title 27, California Code of Regulations, section 20686, or

6. the beneficial reuse of biosolids pursuant to Part 503, Title 40 of the Code of Federal Regulations and State Water Resources Control Board General Order No. 2004-0012-DWQ, or site-specific Waste Discharge Requirements or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control Board having jurisdiction.

[NOTE: As specified in section 17850(d), nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all authorizations and complying with all requirements of other regulatory agencies, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.]

(24.5.1) "Land Application Activity" is a solid waste operation where a landowner accepts any combination of compostable material or digestate for land application onto their own parcel of land. Land Application Activity does not include the land application of processed poultry mortality material consisting only of agricultural material when overseen by the California Department of Food and Agriculture.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

ARTICLE 2. Regulatory Tiers for Composting Operations and Facilities

Section 17854.1. Regulatory Tier Requirements for Compostable Material Handling Operations and Facilities.

Sections 17854 through 17862.1 set forth the regulatory tier requirements (Title 14, Division 7, Chapter 5., Article 3.0, commencing with section 18100 or Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3 and 3.1 (commencing with section 21570) of the California Code of Regulations) for compostable material handling operations and facilities. These requirements are summarized in Table 1.

Table 1

Compostable Material Handling Operations and Facilities

Placement into the Regulatory Tiers

<i>Excluded Tier</i>	<i>Enforcement Agency Notification Tier</i>	<i>Registration Permit Tier</i>	<i>Full Solid Waste Facility Permit</i>
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Refer to Section 17855	Agricultural Material Composting Operations (all) Section 17856.		Composting Facilities (all) (e.g. biosolids, digestate, food material, mixed material) Section 17854.
	Green Material Composting Operations ($\leq 12,500$ yd ³) Section 17857.1(a)	Vegetative Food Material Composting Facilities ($\leq 12,500$ yd ³) Section 17857.2	Green Material Composting Facilities ($> 12,500$ yd ³) Section 17857.1 (c)
	Biosolids Composting Operations at POTWs (all) Section 17859.1		Vegetative Food Material Composting Facilities ($> 12,500$ yd ³) Section 17857.2
	Research Composting Operations ($\leq 5,000$ yd ³) (Within-vessel $> 5,000$ yd ³ with EA determination) Section 17862.		
	Chipping and Grinding Operations (≤ 200 tpd) Section 17862.1(a)	Chipping and Grinding Facilities (> 200 tpd and ≤ 500 tpd) Section 17862.1(b)	Chipping and Grinding Facilities (> 500 tpd) Section 17862.1(c)
	<u>Land Application Activity section 17862.3.</u>		

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

Section 17862.3. Land Application Activity

(a) A land application activity that receives greater than 4,040 cubic yards of compostable material or digestate during a 12-month period shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100), and the applicable requirements specified in this Chapter.

(b) Prior to receipt of the material, the landowner shall provide to the EA evidence that the material is in compliance with conditions described in section 17852(a)(24.5)(A)4.

(c) The material shall be land applied or removed from the site within 48 hours of receipt or at an alternative timeline as approved by the EA provided that the alternative timeline does not pose a risk to public health and safety and the environment or does not cause a nuisance.

(d) The landowner shall maintain, and provide to the EA upon request, a record of the following:

(1) Date material was received.

(2) Date material was applied to the land.

(3) Date the material was incorporated into the soil, or date the EA authorized an alternative.

(4) Business name and address of who produced the material.

(5) Volume of material received in cubic yards.

(6) Evidence of compliance with conditions described in section 17852(a)(24.5)(A).

(e) The landowner shall not mix compostable material or digestate with non-organic materials on-site for use as land application.

(f) The EA shall inspect a land application activity within 90 days of receipt of the evidence required by subdivision (b). The EA may perform additional inspections to ensure compliance with this section and to protect public health and safety and the environment.

(g) A land application activity is not subject to Articles 3 through 9 of this Chapter.

Authority cited: Sections 40502, 43020, 43021 and 44000.5, Public Resources Code.

Reference: Sections 40053, 43020, 43021 and 44000.5, Public Resources Code.

Section 17862.4. Land Application RequirementsConditions

(a) The compostable material and/or digestate does not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters), as specified in section 17868.3.1, at the time of land application;

(b) The compostable material and/or digestate meets the maximum metal concentrations, as specified in section 17868.2, at the time of land application;

(c) The compostable material and/or digestate meets the pathogen density limits, as specified in section 17868.3(b)(1), at the time of land application; and

(d)

1. On a parcel of land not zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than once during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 6 inches in total, accumulated depth on the land surface. No additional material can be delivered to the site until the previous application has been incorporated into the soil, unless otherwise approved by the EA. Any material delivered to the site that is not incorporated into the soil within thirty (30) days shall be deemed disposed. The EA, in consultation with the Regional Water Quality Control Board, may approve alternative application frequencies and depths, if the EA after such consultation determines that the alternatives will not adversely affect public health and safety or the environment.

2. On a parcel of land zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than three times during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 6 inches in total, accumulated depth on the land surface. No additional material can be delivered to the site until the previous application has been incorporated into the soil, unless otherwise approved by the EA. Any material delivered to the site that is not incorporated into the soil within thirty (30) days shall be deemed disposed. The EA, in consultation with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality, may approve alternative frequencies and depths, if the EA after such consultation determines that the alternative will not adversely affect public health and safety or the environment. The Department shall coordinate all EA requests for consultation with the California Department of Food and Agriculture.

(e) Verification of compliance with this subdivision must be provided to the EA as described in section 17862.3 and as upon request.

Authority cited: Sections 40502, 43020, 43021 and 44000.5, Public Resources Code.

Reference: Sections 40053, 43020, 43021 and 44000.5, Public Resources Code.

ARTICLE 7. Environmental Health Standards

Section 17868.1. Sampling Requirements.

All composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities shall meet the following requirements:

(a) Operators shall verify that compost meets the maximum acceptable metal concentration limits specified in section 17868.2 and pathogen reduction requirements

specified in section 17868.3. Verification of maximum acceptable metal concentrations and pathogen reduction requirements shall occur prior to the point where compost is removed from the site or beneficially used on-site. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced. This verification shall be performed by taking and analyzing at least one composite sample of compost, following the requirements of this section as follows:

~~(3) Composite sample analysis for maximum acceptable metal concentrations, specified in section 17868.2, shall be conducted at a laboratory certified by the California Department of Public Health, pursuant to the Health and Safety Code.~~ Composite sample analysis of the environmental health standards of Article 7 of this chapter shall be conducted using a laboratory accredited by the State of California.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

Section 17868.6. Material Sent for Land Application.

(a) Material that is sent offsite for land application must be sampled to verify it meets the requirements of section 17852(a)(24.5) prior to the material leaving the site.

(1) The facility or operation shall conduct one composite sample of the initial stockpile of material that is ready to be sent for land application. For each subsequent 5,000 cubic yards stockpiled, the facility or operation shall conduct a minimum of one composite sample of that material ready to be sent for land application. If the facility or operation produces less than 5,000 cubic yards of material in a 12-month period, the operator shall conduct at least one sample of material ready to be sent for land application.

(2) Sampling results shall be provided to the person receiving the material for land application.

(b) Any material that does not meet the land application requirements of section 17852(a)(24.5) shall not be sent offsite for land application. The material shall be reprocessed onsite, sent offsite for further processing, or sent to disposal.

Authority cited: Sections 40502, 43020, 43021 and 44000.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 44000.5, Public Resources Code.

ARTICLE 8. Composting Operation and Facility Records

Section 17869. General Record Keeping and Reporting Requirements.

(e) The operator shall maintain the following records under this section

- (1) The quarterly percentage of organic waste contained in materials sent to landfill disposal as calculated pursuant to Section 17867(a)(16).
- (2) Daily outgoing weights of material sent to disposal.
- (3) Daily outgoing weights of compost or chipped and ground material produced.
- (4) Daily incoming weights by material type.
- (5) The destination address, date, weight, and volume in cubic yards of compostable material sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation such as land application.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 42652.5, 43020 and 43021, Public Resources Code; and Section 39730.6, Health and Safety Code.

CHAPTER 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements

ARTICLE 4. Record Keeping Requirements

Section 17896.45. Record Keeping and Reporting Requirements.

Each operator shall meet the following requirements:

(a) Each operator shall maintain records listed in this subdivision in a form and manner approved by the EA. Such records shall be adequate for overall planning and control purposes; and, be as current and accurate as practicable.

(7) The destination address, date, weight, and volume in cubic yards of material sent for land application.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code; and Section 39730.6, Health and Safety Code.

ARTICLE 6. Digestate Handling Standards

Section 17896.58. Sampling Requirements.

(b) Sampling shall be performed by taking and analyzing at least one composite sample, following the requirements of this section as follows:

(1) An operator shall take and analyze one composite sample for every 5,000 cubic-yards of compost produced. If the in-vessel digestion facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample every 12 month period.

(2) ~~Composite sample analysis for maximum acceptable metal concentrations, specified in section 17896.59, shall be conducted at a laboratory certified by the California Department of Public Health, pursuant to the Health and Safety Code.~~ Composite sample analysis of the environmental health standards of Article 6 of this chapter shall be conducted using a laboratory accredited by the State of California.

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

Section 17896.62. Material Sent for Land Application.

(a) Material that is sent offsite for land application must be sampled to verify it meets the requirements of section 17852(a)(24.5) prior to the material leaving the site.

(1) The facility or operation shall conduct one composite sample of the initial stockpile of material that is ready to be sent for land application. For each subsequent 5,000 cubic yards stockpiled, the facility or operation shall conduct a minimum of one composite sample of that material ready to be sent for land application. If the facility or operation produces less than 5,000 cubic yards of material in a 12-month period, the operator shall conduct at least one sample of material ready to be sent for land application.

(2) Sampling results shall be provided to the person receiving the material for land application.

(b) Any material that does not meet the land application requirements of section 17852(a)(24.5) shall not be sent offsite for land application. The material shall be reprocessed onsite, sent offsite for further processing, or sent to disposal.

Authority cited: Sections 40502, 43020, 43021 and 44000.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 44000.5, Public Resources Code.

CHAPTER 5. Enforcement of Solid Waste Standards and Administration of Solid Waste Facility Permits; Loan Guarantees

ARTICLE 4. Enforcement by EA and Review by Department

Section 18302. Written Complaints of Alleged Violations.

(a) Any person having information alleging a facility, ~~or operation,~~ or land application activity as defined in section 17852(a)(24.5.1) is being operated without a required permit or notification, in violation of one or more terms or conditions of a permit, in violation of the state minimum standards, or in violation of any related state solid waste laws or regulations, or that a permit was obtained wholly or partially by misrepresentation or nondisclosure of relevant facts, may file a complaint regarding such allegation in writing to the EA. The complaint shall include the following:

(1) The name, address and telephone number of the person making the complaint, however nothing in this chapter shall be construed to prevent the making of anonymous complaints by omitting the identity of the reporting party from the complaint;

(2) The identity and location, if known, of the facility, ~~or operation,~~ or land application activity as defined in section 17852(a)(24.5.1) and the names and addresses, if known, of the persons responsible for the violation;

(3) The nature of the violation and/or the relevant misrepresented or non-disclosed facts; and

(4) All known facts relevant to the alleged violation or likely to be of assistance to the EA in investigating the complaint, including but not limited to information relating to witnesses and physical evidence.

(b) The person making the complaint may forward a copy to the Department.

(c) Upon receipt of a complaint, the EA shall within fifteen days examine the ~~report~~complaint and determine whether its allegations, if true, would constitute a violation of a state minimum standard, permit term or condition or any related state solid waste law or regulation. The EA shall make its determination on the basis of the substance of the allegations rather than on the basis of the complaint's technical compliance with the Act or this chapter. Should the EA determine that the complaint fails to allege facts constituting a violation of a state minimum standard, permit term or condition or related state solid waste law or regulation, it shall so advise the reporting party in writing at the address given in the complaint if an address is given and place a copy in its files.

(d) Upon receipt of an odor complaint related to a land application activity as defined in section 17852(a)(24.5.1) or a compostable material handling operation or facility, the EA shall investigate the complaint as soon as practical to determine whether or not to issue

a violation for failing to minimize odor. The odor complaint investigation shall include the following:

- (1) The date and time the EA arrived and departed within the complaint area.
- (2) Observations of wind direction and speed, and general weather conditions such as clouds, fog, high wind speed, humidity, and temperature.
- (3) If odor is detected, the EA shall:
 - (A) Record the location where odor was observed, such as the street address, latitude/longitude, tax parcel number, etc.
 - (B) Verify the odor event at the complainant's location and document the complainant's claim, if any, that the odor is interfering with the complainant's use and comfortable enjoyment of life or property.
 - (C) Document odor characteristics, intensity, and duration at the complainant's location, the solid waste facility/operation, and other odor sources adjacent to the solid waste facility/operation.
 - (D) Identify activities conducted at the solid waste facility/operation at the time of the odor event. The EA should consult with the operator to determine if there were unusual operational changes or atypical feedstocks accepted during the time of the complaint(s).
- (4) Any known facts relevant to the alleged violation provided by local, state, and federal agencies having appropriate jurisdiction.
- (e) The EA may decline to investigate a complaint if, in its judgment, investigation is unwarranted because the allegations are contrary to facts known to the EA. Should the EA decline to investigate on that ground, it shall so advise the complaining party in writing at the address given in the complaint if an address is given and place a copy in its files.
- (f) Except as provided in subsection (c) or subsection (e) of this section, the EA shall commence an investigation of the facts alleged in the complaint.
- (g) If an LEA has a complaint review and investigation initiation procedure that contains substantially the same basic requirements as this section, and accomplishes the intended purposes of this section within its Department-approved EPP, it may follow that equivalent process in lieu of subsections (c), (d) and (e) of this section. Section 18302 is intended to ~~insure~~ensure that every person making a written complaint of an alleged unlawful condition at a solid waste facility or operation can assume that his or her complaint will receive appropriate attention.
- (h) If the Department receives a complaint in a jurisdiction where it is not the EA, the complaint shall be forwarded to the appropriate LEA within 5 days of its receipt, unless the LEA has already received a copy from the complaining party.

Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 43209, 44012, 44015 and 45000-45024, Public Resources Code.

Section 18303. Investigations.

(a) The EA shall conduct investigations of allegations made to it as required by subsection (ed) of Section 18302 or, if applicable, as required by its own equivalent complaint review and investigation initiation procedure as described in its board-approved EPP, and shall conduct investigations of all other disposal sites, facilities and operations where it has reason to believe violations exist. In addition, the EA shall conduct such periodic investigations as it deems necessary to ~~insure~~ensure compliance with all related state solid waste laws and regulations, including but not limited to section 18103 and Public Resources Code section 44000.5. In any investigation of possible violation of a health-related standard, the LEA, if it is not the local health department, shall consult as appropriate with the local health department concerning enforcement ~~and any other related~~ actions. If an investigation of possible violation of a health-related standard is conducted by the board, it shall obtain and consider the recommendation of the State Department of Health Services in addition to that of the local health department/health officer.

(b) Investigations by LEAs shall be conducted in accordance with the procedures in their board-approved EPPs. The procedures shall include the requirements found in subsection (c).

(c) The EA shall maintain a record of each investigation. The record shall include but not be limited to the following:

- (1) The names of all persons interviewed and the date ~~ad~~and location of each interview;
- (2) A description of all documentary and other physical evidence examined;
- (3) The dates, times, and locations of all inspections of the facility;
- (4) A list of correspondence, including any written reports by the permittee;
- (5) Any other evidence leading to resolve the issues.
- (6) A summary of the findings and conclusions of each completed investigation.

(d) The summary of the findings and conclusions of each completed investigation shall be included in the next periodic inspection report, as applicable.

Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 44100 and 44101, Public Resources Code.

Section 18304. Notices and Orders.

(a) The EA as it deems appropriate or when required by statute, shall issue a notice and order pursuant to subsection (b) and section 18304.1 if, in the course of an investigation or at any other time, the EA determines that any facility, disposal site, operation or person(s):

(1) Is in violation of Division 30 of the Public Resources Code, including but not limited to section 44000.5;

(2) Is in violation of any regulations adopted pursuant to Division 30 of the Public Resources Code;

(3) Is in violation of ~~any of~~ the terms or conditions of the solid waste facility permit under which the facility or disposal site is operating;

(4) Causes or threatens to cause ~~a~~ condition of hazard, or pollution; or

(5) Poses a potential or actual threat to public health and safety or the environment.

(b) The notice and order shall contain the following information:

(5) The statutes, regulations, or permit terms ~~or~~ and conditions the EA has determined are being violated.

Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 45000-45024, Public Resources Code.

Section 18304.1. Types of Notices and Orders; Enforcement Thereof.

The EA shall include in a notice and order at least one of the orders listed in subsection (a), and shall include the applicable notices listed in subsection (b):

(a) Orders

(1) Corrective Action Order

An order requiring the owner or operator of a facility, disposal site or operation, or any person in violation of Public Resources Code section 44000.5, to take specified action by a specified date to abate a nuisance, or to protect public health and safety or the environment.

Example: Typical circumstances under which this order may be issued: Conditions at the facility, disposal site or operation are creating a nuisance or posing a threat to human health and safety or the environment.

(2) Cease and Desist Order

An order requiring the owner or operator of a facility, disposal site or operation, or any person who has violated, is violating, or proposes to violate Public Resources Code section 44000.5, to cease and desist any improper action, as specified in PRC section 45005, by a specified date. Example: Typical circumstances under which this order may be issued: Facility, disposal site or operation is in violation of Division 30 of the Public Resources Code, any regulations adopted pursuant to Division 30, or causes or threatens to cause a condition of hazard, pollution or nuisance.

(3) Compliance Order

~~Upon any of the grounds specified in PRC section 45011(a)(1), a~~ An order issued pursuant to Public Resources Code section 45011 establishing a time schedule according to which the owner or operator of the facility, disposal site or operation, or any person who has unlawfully disposed of solid waste in violation of Public Resources Code section 44000.5, shall correct any violations and/or abate a potential or actual threat to public health and safety or the environment. Example: Typical circumstances under which this order may be issued: Facility, disposal site or operation is in violation of Division 30 of the Public Resources Code, any regulations adopted pursuant to Division 30, any corrective action or cease and desist order, or poses a potential or actual threat to public health and safety or the environment. A compliance order must be issued pursuant to PRC section 45011 as a prelude to the assessment of administrative civil penalties.

(b) Notices

(1) Notice informing the owner and operator, or person in violation of Public Resources Code section 44000.5, that failure to comply by a specified date in a final corrective action order may result in the EA contracting for corrective action.

Enforcement: As more fully described in PRC section 45000, if the owner or operator fails to take corrective action as specified in a final order by the specified date, the EA or the board may either take corrective action itself or contract for corrective action to be completed by an outside party. Corrective actions taken by the EA, the board, or an outside party will be at the expense of the owner, operator or both and are recoverable pursuant to PRC section 45000.

(2) Notice informing the owner or operator, or person in violation of Public Resources Code section 44000.5, that the EA may take action to impose administrative civil penalties upon failure to comply with applicable deadlines in a final compliance order.

Enforcement: Pursuant to PRC section 45011, if the owner or operator fails to achieve compliance by applicable deadlines in the order, the EA may impose penalties through written notification to the owner or operator. The notification shall include the amount of the penalty and the due date for payment, which in no case should be later than 30 days after the date the order becomes final.

(3) Notice informing the owner or operator, or person in violation of Public Resources Code section 44000.5, that the EA is conditionally imposing administrative civil penalties in a specified amount per day with a specified start date for penalty accrual, upon failure to comply with applicable deadlines in a final compliance order.

Enforcement: If the owner or operator fails to achieve compliance by applicable deadlines in the order issued pursuant to PRC section 45011, the EA shall notify the owner or operator in writing of the amount of the penalty and the due date for payment, which in no case should be later than 30 days after the date the order becomes final.

(4) Notice informing the owner or operator, or person in violation of Public Resources Code section 44000.5, that failure to comply by the deadline in a final order may result in the EA petitioning the superior court to enjoin the violations, and that continued violation after the granting of an injunction may be punishable as contempt of court.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by filing an appropriate petition in superior court.

(5) Notice informing the owner or operator, or person in violation of Public Resources Code section 44000.5, that upon failure to comply with a deadline in a final order, the EA may bring an action in the superior court to impose upon the owner or operator civil penalties.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by filing an appropriate petition in superior court pursuant to PRC sections 45023 and 45024.

(6) Notice informing the owner or operator that the EA, subject to the applicable requirements of PRC sections 44305 and 44306, may take action to suspend or revoke the permit for the facility upon failure to comply with applicable deadlines in a final order.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by revoking or suspending the permit for the facility pursuant to PRC sections 44305 and 44306.

Authority cited: Sections 40502 and 43020, Public Resources Code. Reference: Sections 45000-45024 and 44305-44306, Public Resources Code.