

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 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).

(8) "Large Volume Transfer/Processing Facility" means a facility that receives 100 tons or more of solid waste per operating day for the purpose of storing, handling or

processing the waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(9) "Limited Volume Transfer Operation" means an operation that receives less than 60 cubic yards, or 15 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to another solid waste operation or facility and which does not conduct processing activities, but may conduct limited salvaging activities and volume reduction by the operator.

(A) In determining the tonnage of solid waste received by the operation, the following materials shall not be included: materials received by a recycling center located within the operation, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the operation does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(10) "Litter" means all solid waste which has been improperly discarded or which has migrated by wind or equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state.

(11) "Medium Volume Transfer/Processing Facility" means a 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 100 tons of solid waste, for the purpose of storing or handling the waste prior to transferring the waste to another solid waste operation or

facility; or a facility that receives any amount of solid waste, up to 100 tons per operating day, for the purpose of processing solid waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(11.5) "Mixed Waste Organic Collection Stream" means organic waste collected in a container that is required by Section 18984.1, 18984.2, or 18984.3 to be transported to a high diversion organic waste processing facility.

(12) "Nuisance" includes anything which:

(A) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and

(B) affects at the same time an entire community, neighborhood or any considerable number of persons. The extent of annoyance or damage inflicted upon an individual may be unequal.

(13) "On-site" means located within the boundary of the operation or facility.

(14) "Open burning" means the combustion of solid waste without:

(A) control of combustion air to maintain adequate temperature for efficient combustion,

(B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(C) control of the emission of the combustion products.

(15) "Operating day" means the hours of operation as set forth in the application, Enforcement Agency Notification and/or permit not exceeding 24 hours.

(16) "Operating Record" means an easily accessible collection of records of an operation's or facility's activities and compliance with required state minimum standards under Title 14. The Record may include the Facility Plan or Transfer/Processing Report for facilities, and shall contain but is not limited to

containing: agency approvals, tonnage and loadchecking records, facility contacts and training history. The record may be reviewed by state and local authorities and shall be available during normal business hours. If records are too voluminous to place in the main operating record or if the integrity of the records could be compromised by on-site storage, such as exposure to weather, they may be maintained at an alternative site, as long as that site is easily accessible to the EA.

(17) "Operations Area" means:

(A) the following areas within the boundary of an operation or facility as described in the permit application or Enforcement Agency Notification:

(i) equipment management area, including cleaning, maintenance, and storage areas; and

(ii) material and/or solid waste management area, including unloading, handling, transfer, processing, and storage areas.

(B) the boundary of the operations area is the same as the permitted boundary but may or may not be the same as the property boundary.

(18) "Operator" means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, that is listed in the permit application or Enforcement Agency Notification, is legally responsible for all of the following:

(A) complying with regulatory requirements set forth in these Articles;

(B) complying with all applicable federal, state and local requirements;

(C) the design, construction, and physical operation of the operations area;

(D) controlling the activities at an operation or facility as listed on the permit application or Enforcement Agency Notification.

(18.4) "Organic Waste Recovery Activities," or "Recovery" has the same meaning as defined in Section 18982(a)(49).

(18.5) "Organic Waste" has the same meaning as in Section 18982(a)(46).

(19) "Owner" means the person or persons who own, in whole or in part, an operation or facility, and/or the land on which it is located.

(20) "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. Recycling Center is more specifically defined in section 17402.5(d) of this Article.

(21) "Putrescible Wastes" include wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(22) "Regulated Hazardous Waste" means a hazardous waste, as defined in section 66260.10 of Division 4.5 of Title 22.

(23) "RWQCB" means the Regional Water Quality Control Board.

(23.5) "Remnant Organic Material" means the organic waste that is collected in a gray container that is part of the gray container collection stream.

(23.6) "Reporting Period" has the same meaning as defined in Section 18815.2 (a)(49).

(24) "Salvaging" means the controlled separation of solid waste material which do not require further processing, for reuse or recycling prior to transfer activities.

(25) "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste materials.

(26) "Sealed Container Transfer Operation" means a transfer operation that meets the following requirements:

(A) handles only solid waste that has previously been placed within containers that have either a latched, hard top or other impermeable cover which is closed tightly enough to:

(1) prevent liquid from infiltrating into or leaking out of the container; and

(2) prevent the propagation and migration of vectors; and,

(i) the solid waste remains within the unopened containers at all times while on-site; and,

(ii) the containers are not stored on-site for more than 96 hours. Sealed container transfer operations do not include operations excluded by Public Resources Code section 40200(b)(3).

(26.5) "Secondary Material Processing Facility" or "Operation" means an activity whose primary purpose is to receive and process source separated, or separated for reuse, materials from a permitted transfer/processing facility or a transfer/processing operation governed by an enforcement agency notification, and that does not meet the residual percentage or putrescible waste percentage as set forth in section 17402.5(d). Materials include, but are not limited to, glass, plastics, paper, and cardboard.

(A) Secondary Material Processing Operations are those activities that:

1. Are governed by the Enforcement Agency Notification tier requirements as specified in section 17403.3.2; and,
2. Receive an amount of residual material that is less than 40% by weight as calculated on a monthly basis. Operations that do not meet this residual requirement shall comply with the Registration Permit tier requirements specified in 17403.3.3.

(B) Secondary Material Processing Facilities are those activities that:

1. Are governed by the Registration Permit tier requirements as specified in section 17403.3.3; and,
2. Do not meet the 40% residual material requirement as specified in subdivision (A).

(26.6) "Source Separated Organic Waste" or "Source Separated Organic Waste Collection Stream" means organic waste that is collected in a green container as specified in Sections 18984.1(a)(1) and 18984.2(a)(1), "source separated blue container organic waste," as defined in this Subsection (a)(26.7), organic waste collected in an additional container as specified in Section 18984.1(a)(6), and organic waste collected in an "uncontainerized green waste and yard waste collection service," as defined in Section 18982.

(26.7) "Source Separated Blue Container Organic Waste" means the organic wastes collected in a blue container that is limited to the collection of those organic wastes and non-organic recyclables as defined in Section 18982(a)(43).

(27) "Special Waste" includes but is not limited to:

(A) waste requiring special collection, treatment, handling, storage, or transfer techniques as defined in Title 22, section 66260.10.

(B) waste tires and appliances requiring CFC removal.

(28) "Spotter" means an employee who conducts activities that include, but are not limited to, traffic control, hazardous waste recognition and removal for proper handling, storage and transport or disposal, and protection of the public from health and/or safety hazards.

(29) "Store" means to stockpile or accumulate for later use.

(30) "Transfer/Processing Facility" or "Facility" includes:

(A) those activities governed by the Registration Permit tier or Full Solid Waste Facility Permit requirements (as specified in sections 17403.6 and 17403.7); and,

(B) which:

1. receive, handle, separate, convert or otherwise process materials in solid waste; and/or
2. transfer solid waste directly from one container to another or from one vehicle to another for transport; and/or
3. store solid waste;

(C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste facility does not constitute solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from the solid waste activities, or where the recycling and solid waste activities are considered by the EA as separate operations.

(D) "Transfer/Processing Facilities" do not include activities specifically defined in section 17402.5(c) of this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with section 17850).

(31) "Transfer/Processing Operation" or "Operation" includes:

(A) those activities governed by the EA Notification tier requirements; and,

(B) which:

1. receive, handle, separate, convert or otherwise process materials in solid waste; and/or
2. transfer solid waste directly from one container to another or from one vehicle to another for transport; and/or
3. store solid waste;

(C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste operation does not constitute solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from the solid waste activities, or where the recycling and solid waste activities are considered by the EA as separate operations.

(D) "Transfer/Processing Operations" do not include activities specifically defined in section 17402.5(c) of this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with section 17850).

(32) "Volume Reduction" means techniques such as: compaction, shredding, and baling.

(33) "Waste Hauling Yard Operation" is an operation that meets the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator, who receives, stores, or transfers waste as an activity incidental to the conduct of a refuse collection and disposal business, and;

(B) handles only solid waste that has been placed within a covered container before the container arrives at the waste hauling yard, and;

(C) no more than 90 cubic yards of waste is stored on-site in covered containers at any time, and;

(D) the solid waste remains within the original covered containers while on-site at any times, and;

(E) the covered containers are not stored on-site for more than any 72 hour period;

(F) if the EA has information that the operation does not meet these requirements, the burden of proof shall be on the owner or operator to demonstrate that the requirements are being met.

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 consumer 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.

Each operator shall meet the following requirements:

- (a) each operator shall maintain records of incoming weights or volumes and outgoing salvage or residual weights or volumes in a form and manner approved by the EA. Such records shall be: submitted to the EA or Department upon request; be adequate for overall planning and control purposes; and, be as current and accurate as practicable;
- (b) all records required by this Article shall be kept by the operator in one location and accessible for three (3) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours;
- (c) the operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA;
- (d) the operator shall maintain a daily log book or file of special occurrences encountered during operations and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Special occurrences shall include but are not limited to: fires, injury and property damage, accidents, explosions, receipt or rejection of prohibited wastes, lack of sufficient number of personnel pursuant to section 17410.2, flooding, earthquake damage and other unusual occurrences. In addition, the operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment;
- (e) the operator shall record any written public complaints received by the operator, including:
 - (1) the nature of the complaint,
 - (2) the date the complaint was received,
 - (3) if available, the name, address, and telephone number of the person or persons making the complaint, and
 - (4) any actions taken to respond to the complaint.
- (f) the operator shall maintain a copy of the written notification to the EA and local health agency of the name, address and telephone number of the operator or other person(s) responsible for the operations as required by section 17410.2;
- (g) the operator shall maintain records of employee training as required by section 17410.3; and

(h) each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(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 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, 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.

(a) The operator shall keep the following records:

(1) The results of each sample conducted pursuant to Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, and 17409.5.8.

(2) The daily outgoing weights of material recovered from the mixed organic waste stream.

(3) The daily outgoing weights of materials removed from the mixed organic waste stream and sent to landfill disposal.

(4) The daily outgoing weights of material recovered from the source separated organic waste stream.

(5) The daily outgoing weights of material removed from the source separated, organic-waste stream and sent to landfill disposal.

(6) The daily incoming weights of mixed organic waste.

(7) The daily incoming weights of source separated organic waste.

(8) The results of the formula calculated pursuant to Section 17409.5.8(b)(7).

(9) If the operator complies with the incompatible material requirements in Section 17409.5.8 by sending material to a facility that meets the requirements of Section 17409.5.8(c), the operator shall keep a record of:

(A) The name, address, location, and if applicable the RDRS number, of each facility that material is sent to.

(B) The daily outgoing weights of material sent to each facility by type.

(10) The results of the waste evaluations conducted pursuant to Section 17409.5.7.

(A) A copy of the notification if the waste evaluation was performed at an alternative solid waste facility.

(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 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, weight, and destination address where material was sent.

(c) The records required in Subdivisions (a) and (b) shall be:

(1) Adequate for overall planning and control purposes.

(2) As current and accurate as practicable.

(d) All records required by this article shall be kept by the operator in one location and accessible for five (5) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours.

(e) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA.

(f) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

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:

(1) "Active Compost" means compost feedstock that is in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition; or is releasing carbon dioxide at a rate of at least 15 milligrams per gram of compost per day, or the equivalent of oxygen uptake.

(2) "Additives" means material mixed with feedstock or active compost in order to adjust the moisture level, carbon to nitrogen ratio, or porosity to create a favorable condition. Additives include, but are not limited to, fertilizers and urea. Additives do not include septage, biosolids, or compost feedstock.

(3) "Aerated Static Pile" means a composting process that uses an air distribution system to either blow or draw air through the pile. Little or no pile agitation or turning is performed.

(4) "Aerobic Decomposition" means the biological decomposition of organic substances in the presence of oxygen.

(4.5) "Agricultural By-Product Material" means post-harvest agricultural by-products separated at a processing facility.

(A) Agricultural By-product Material includes, but is not limited to, solid or semi-solid materials from fruit, nut, cotton, and vegetable processing facilities such as stems, leaves, seeds, nut hulls and shells, peels, and off-grade, over-ripe, or under-ripe produce.

(B) Agricultural By-product Material does not contain packaging material, physical contaminants, or hazardous materials, and does not include wastewater, sludges, or additives.

(5) "Agricultural Material" means waste material of plant or animal origin, which results directly from the conduct of agriculture, animal husbandry, horticulture, aquaculture, silviculture, vermiculture, viticulture and similar activities undertaken for the production of food or fiber for human or animal consumption or use, which is separated at the point of generation, and which contains no other solid waste. With the exception of grape pomace or material generated during nut or grain hulling, shelling, and processing, agricultural material has not been processed except at its point of generation and has not been processed in a way that alters its essential character as a waste resulting from the production of food or fiber for human or animal consumption or use. Material that is defined in this section 17852 as "food

material” or “vegetative food material” is not agricultural material. Agricultural material includes, but is not limited to, manures, orchard and vineyard prunings, grape pomace, and crop residues.

(6) “Agricultural Material Composting Operation” means an operation that produces compost from green or agricultural material additives, and/or amendments.

(7) “Amendments” means materials added to stabilized or cured compost to provide attributes for certain compost products, such as product bulk, product nutrient value, product pH, and soils blend. Amendments do not include septage, biosolids, or compost feedstock.

(8) “Anaerobic Decomposition” means the biological decomposition of organic substances in the absence of oxygen.

(9) “Biosolids” means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic septage and scum or solids removed in primary, secondary, or advanced wastewater treatment processes. Biosolids includes the residue solids resulting from the co-digestion of anaerobically digestible material with sewage sludge. Biosolids does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in a treatment works.

(10) “Chipping and Grinding Operations and Facilities” means an operation or facility, that does not produce compost that mechanically reduces the size or otherwise engages in the handling, of compostable material and:

(A) The site does the following:

1. The site handles only material, excluding manure, allowed at a green material composting operation or facility as set forth in section 17852(a)(22); and,
2. Each load of green material is removed from the site within 48 hours of receipt. The EA may allow a site to keep green material on-site for up to 7 days if the EA determines that the additional time does not increase the potential for violations of this Chapter.

(B) If the site fails to meet the definition of green material because it exceeds the contamination limits in section 17852(a)(21), the site shall be regulated as set forth in the Transfer/Processing Regulatory requirements (commencing at section 17400).

(C) If the site fails to meet the definition of this section because the green material remains on-site for a longer period of time than is allowed, then the site shall be regulated as a compostable material handling operation or facility, as set forth in this Chapter.

(11) “Compostable Material” means any organic material that when accumulated will become active compost as defined in section 17852(a)(1).

(12) “Compostable Materials Handling Operation” or “Facility” means an operation or facility that processes, transfers, or stores compostable material. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and storage activities related to the production of compost, compost feedstocks, and chipped and ground materials. “Compostable Materials Handling Operation or Facility” does not include activities excluded from regulation in section 17855. “Compostable Materials Handling Operation or Facility” also includes:

- (A) agricultural material composting operations;
- (B) green material composting operations and facilities;
- (C) vegetative food material composting facilities;
- (D) research composting operations;
- (E) chipping and grinding operations and facilities; and,
- (F) biosolids composting operations at POTWs.

(13) “Curing” means the final stage of the composting process that occurs after compost has undergone pathogen reduction, as described in section 17868.3, and after most of the readily metabolized material has been decomposed and stabilized.

(13.5) “Digestate” means the solid and/or liquid residual material remaining after organic material has been processed in an in-vessel digester, as defined in section 17896.2(a)(14). Digestate intended to be composted pursuant to this Chapter may only be handled at a facility that has obtained a Compostable Materials Handling Facility Permit pursuant to section 17854.

(14) “Domestic Sewage” means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

(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).

(C) Should the EA have reason to believe that a person is engaging in activities that meet the definition of disposal of compostable material or authorizing such activities on land the person owns or otherwise possesses, the burden of proof shall be on each person engaging in or authorizing such activities to demonstrate otherwise.

(D) If the activities at a site meet the definition of disposal of compostable material and/or digestate, 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).

(16) “Dry Weight Basis” or “Dry Weight” means weight calculated on the basis of having been dried until reaching a constant mass that results in essentially 100 percent solids content.

(17) “Enclosed Composting Process” means a composting process where the area that is used for the processing, composting, stabilizing, and curing of organic materials, is covered on all exposed sides and rests on a stable surface with environmental controls for moisture and airborne emissions present.

(18) “EA” means enforcement agency.

(19) “Feedstock” means any compostable material used in the production of compost or chipped and ground material including, but not limited to, agricultural material, green material, vegetative food material, food material, biosolids, digestate, and mixed material. Feedstocks shall not be considered as either additives or amendments.

(19.5) "Film plastic" means sheet plastic 10 mil or less in thickness.

(20) "Food Material" means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food material includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code section 113789 (such as restaurants), food processing establishments as defined in Health and Safety Code section 111955, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), and residential food scrap collection. Food material does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto.

(A) "Vegetative Food Material" means that fraction of food material, defined above, that is a plant material and is separated from other food material and the municipal solid waste stream. Vegetative food material may be processed or cooked but must otherwise retain its essential natural character and no salts, preservatives, fats or oils, or adulterants shall have been added. Vegetative food material includes, but is not limited to, fruits and vegetables, edible flowers and plants, outdated and spoiled produce, and coffee grounds. Vegetative food material contains no greater than 1.0 percent of physical contaminants by dry weight, and meets the requirements of section 17868.5.

(21) "Green Material" means any plant material except food material and vegetative food material that is separated at the point of generation, contains no greater than 1.0 of percent physical contaminants by dry weight, and meets the requirements of section 17868.5. Green material includes, but is not limited to, tree and yard trimmings, untreated wood wastes, natural fiber products, wood waste from silviculture and manufacturing, and construction and demolition wood waste. Green material does not include food material, vegetative food material, biosolids, mixed material, material separated from commingled solid waste collection or processing, wood containing lead-based paint or wood preservative, or mixed construction and demolition debris. Agricultural material, as defined in this section 17852(a)(5), that meets this definition of "green material" may be handled as either agricultural material or green material.

(22) "Green Material Composting Operation" or "Facility" is an operation or facility that composts green material, additives, and/or amendments. A green material composting operation or facility may also handle manure and paper products. An operation or facility that handles a feedstock that is not green material, manure, or paper products, shall not be considered a green material composting operation or facility. "Green Material Composting Operation" or "Facility" does not include activities excluded from regulation in section 17855.

(23) "Handling" means the processing, transfer, and storage of compostable materials. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and

storage activities related to the production of compost, compost feedstocks, and chipped and ground materials.

(24) “Insulating Material” means material used for the purpose of minimizing the loss of heat from a compost pile undergoing the “Process to Further Reduce Pathogens” (PFRP), as described in section 17868.3. Insulating material includes, but is not limited to, soil and stabilized compost.

(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:

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 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 426 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.
 - b. 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 426 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.

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

(B) This subdivision (a)(24.5) does not apply to:

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.

(25) "Manure" is an agricultural material and means accumulated herbivore or avian excrement. This definition shall include feces and urine, and any bedding material, spilled feed, or soil that is mixed with feces or urine.

(26) "Mixed Material" means any compostable material that is part of the municipal solid waste stream, and is mixed with or contains non-organics, processed industrial materials, mixed demolition or mixed construction debris, or plastics. A feedstock that is not source separated or contains 1.0% or more of physical contaminants by dry weight is mixed material.

(27) "Mushroom Farm" means an activity that produces mushrooms. The handling of compostable material at a mushroom farm prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered mushroom farming.

(27.5) "Nuisance" includes anything which:

(A) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and

(B) affects at the same time an entire community, neighborhood or any considerable number of persons. The extent of annoyance or damage inflicted upon an individual may be unequal.

(28) "Operations Area" means the following areas within the boundary of a compostable material handling operation or facility:

(A) equipment cleaning, maintenance, and storage areas;

(B) feedstock, active, curing and stabilized compost processing or stockpiling areas; and

(C) process water and stormwater drainage control systems.

(29) "Operator" means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, becomes legally responsible for the following:

(A) complying with regulatory requirements set forth in this Chapter;

- (B) complying with all applicable federal, state and local requirements;
- (C) the design, construction, and physical operation of the site; and
- (D) site restoration.

(30) "Owner" means the person or persons who own, in whole or in part, a compostable material handling operation or facility, or the land on which these operations or facilities are located.

(31) "Pathogenic Organism" means disease-causing organisms.

(32) "Physical Contamination" or "Contaminants" means human-made inert material contained within compostable material, digestate, or compost, including, but not limited to, glass, metal, and plastic.

(33) "Process Water" means liquid that is generated during or used in the production of compost or chipped and ground materials.

(34) "Research Composting Operation" means a composting operation, that is operated for the purpose of gathering research information on composting.

(35) "Separated At The Point of Generation" includes material separated from the solid waste stream by the generator of that material. It may also include material from a centralized facility as long as that material was kept separate from the waste stream prior to receipt by that facility and the material was not commingled with other materials during handling.

(36) "Stabilized Compost" means any organic material that has undergone the Process to Further Reduce Pathogens (PFRP), as described in section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperature and rate of respiration below that of active compost.

(37) "Static Pile" means a composting process that is similar to the aerated static pile except that the air source may or may not be controlled.

(38) "Vector" includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease.

(38.5) "Vegetative Food Material Composting Facility" is a facility that composts agricultural material, green material, vegetative food material, additives, and/or amendments. A vegetative food material composting facility may also handle manure and paper products. An operation or facility that handles a feedstock that is not agricultural material, green material, vegetative food material, manure, or paper products, shall not be considered a vegetative food material composting facility. "Vegetative Food Material Composting Facility" does not include activities excluded from regulation in section 17855.

(39) "Vermicomposting" means an activity that produces worm castings through worm activity. The EA may determine whether an activity is or is not

vermicomposting. The handling of compostable material prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered vermicomposting.

(40) “Windrow Composting Process” means the process in which compostable material is placed in elongated piles. The piles or “windrows” are aerated and/or mechanically turned on a periodic basis.

(41) “Within-vessel Composting Process” means an aerobic process in which compostable material is enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing compost, maintained under uniform conditions of temperature and moisture where airborne emissions are controlled.

(42) “Wood Waste” means solid waste consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

(43) “Yard Trimmings” means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds.

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>
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 ($\leq 12,500 \text{ yd}^3$) Section 17857.1(a)	Vegetative Food Material Composting Facilities ($\leq 12,500 \text{ yd}^3$) Section 17857.2	Green Material Composting Facilities ($> 12,500 \text{ yd}^3$) Section 17857.1 (c)
	Biosolids Composting Operations at POTWs (all) Section 17859.1		Vegetative Food Material Composting Facilities ($> 12,500 \text{ yd}^3$) Section 17857.2
	Research Composting Operations ($\leq 5,000 \text{ yd}^3$) (Within-vessel $> 5,000 \text{ yd}^3$ with EA determination) Section 17862.		
	Chipping and Grinding Operations ($\leq 200 \text{ tpd}$) Section 17862.1(a)	Chipping and Grinding Facilities ($> 200 \text{ tpd}$ and $\leq 500 \text{ tpd}$) Section 17862.1(b)	Chipping and Grinding Facilities ($> 500 \text{ tpd}$) 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).

(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.

ARTICLE 7. Environmental Health Standards

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 consumer 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.

Except as provided in subsection (d), all compostable materials handling operations and facilities shall meet the following requirements:

(a) All records required by this Chapter shall be kept in one location and accessible for five (5) years and shall be available for inspection by authorized representatives of the Department, EA, local health entity, and other duly authorized regulatory and EAs during normal working hours.

(b) The operator shall record any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.

(c) The operator shall record any public complaints received by the operator, including:

(1) the nature of the complaint,

(2) the date the complaint was received,

(3) if available, the name, address, and telephone number of the person or persons making the complaint, and

(4) any actions taken to respond to the complaint.

(d) The operator shall maintain records listed in this subdivision in a form and manner approved by the EA. Agricultural compostable materials handling operations shall maintain records only for compostable material accepted from off-site. Such records shall be adequate for overall planning and control purposes and be as current and accurate as practicable. The records shall be maintained for five (5) years in the operating record and be available for review by the appropriate jurisdiction of origin, haulers, and other duly authorized regulatory agencies.

(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, and weight of compostable material sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation including land application.

(f) The operator shall record all test results generated by compliance with Article 7 of this Chapter, including but not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities, temperature measurements, and dates of windrow turnings; chipping and grinding operations and facilities must record the determinations of the percentage of physical contaminants required by 17862.1(d).

(1) The operator shall retain records detailing pathogen reduction methods.

(g) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement.

(h) The operator shall retain a record of training and instruction completed in accordance with section 17867.5.

(i) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(j) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of Section 17867(a)(16). The EA shall conduct such verification through:

(1) The review of records required by this section; and

(2) The periodic, direct observation of measurements at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with this section.

(k) If, at any time, the EA determines that the records required by this section indicate that compostable material is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination(s). If physical contaminants, based on visual observation, clearly exceed the limits in Section 17852(a)(24.5)(A)1., the EA may require the operator to further process such material.

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.

(1) The quarterly percentage of organic waste contained in material sent to landfill disposal as calculated pursuant to Section 17896.44.1.

(2) The outgoing weights or volumes of material sent to disposal.

(3) Daily outgoing weights or volumes of organic waste recovered and produced.

(4) Daily outgoing weights or volumes of salvaged materials.

(5) Daily incoming weights of material.

(6) The weight of compostable material sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation.

(7) The delivery date, weight, and destination address where material was sent.

(b) All records required by this Chapter shall be kept by the operator in one location and accessible for five (5) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours.

(c) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA;

(d) The operator shall maintain a daily log book or file of special occurrences encountered during operations and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Special occurrences shall include but are not limited to: fires, injury and property damage, accidents, explosions, receipt or rejection of prohibited wastes, lack of sufficient number of personnel pursuant to section 17896.42, flooding, earthquake damage and other unusual occurrences. In addition, the operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment;

(e) The operator shall record any written public complaints received by the operator, including:

- (1) the nature of the complaint,
- (2) the date the complaint was received,
- (3) if available, the name, address, and telephone number of the person or persons making the complaint, and
- (4) any actions taken to respond to the complaint;

(f) The operator shall maintain a copy of the written notification to the EA and local health agency of the name, address and telephone number of the operator or other person(s) responsible for the operations as required by section 17896.42;

(g) The operator shall maintain records of employee training as required by section 17896.43;

(h) all in-vessel digestion operations and facilities shall maintain records as required by section 18809 et seq.

(i) The operator shall record all test results generated by compliance with Article 6 of this Chapter, including but not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities, temperature measurements, and dates of windrow turnings.

- (1) The operator shall retain records detailing pathogen reduction methods.

(j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(k) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of Sections 17896.44.1. The EA shall conduct such verification through:

- (1) The review of records required by this section; and
- (2) The periodic, direct observation of measurements at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with this section.

(l) If, at any time, the EA determines that the records required by this section indicate that compostable material is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination(s). If physical

contaminants, based on visual observation, clearly exceed the limits in Section 17852(a)(24.5)(A)1., the EA may require the operator to further process such material.

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 17896.62. 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 consumer 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 (e~~d~~) 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:

- (1) The identity of the EA.
 - (2) The name or names of each person or entity to whom it is directed.
 - (3) A description of the facility, operation or site where the violation was documented with a specific description of the location of the violation
 - (4) A description of the violation.
 - (5) The statutes, regulations, or permit terms ~~or~~ and conditions the EA has determined are being violated.
 - (6) A schedule, as described in section 18304.1(a), by which the operator is to take specified action(s).
 - (7) The penalty for not complying within the specified schedule, as described in section 18304.1(b).
 - (8) A notice informing the owner/operator of their right to appeal the notice and order to the hearing panel or hearing officer under PRC 44307.
 - (9) The date of issuance and signature of an authorized officer or employee of the EA.
- (c) The notice and order shall be accompanied by a declaration or affidavit under penalty of perjury of an employee or officer of the EA stating that the allegations contained in the notice and order are based either on personal knowledge or information and belief. If the basis of the allegations is the personal knowledge of the declarant or affiant, the declaration or affidavit shall state generally how such knowledge was obtained, including the date of any inspection. If the basis of the allegations is information and belief, the declaration or affidavit shall state generally the source of the information; however, in no case shall the identity of an informant be required to be revealed.
- (d) Within five business days of issuance of the notice and order, it shall be served on the owner and operator of the site, facility or operation, or person as applicable, in the following manner:
- (1) If the site or facility has been issued a permit, or if an application for the site or facility is pending, or if the EA has received a Notification for the operation, by certified mail, return receipt requested, to the address last given by the owner and operator or by personal service if certified mail attempts are unsuccessful; or
 - (2) If no permit has been issued and no application is pending, or no Notification has been filed, by posting a copy at no less than one conspicuous place at the site or facility. Additional copies shall be mailed to addresses of the owner and operator if known to the EA.
- (e) A copy of any notice and order shall be sent to the board within five business days of issuance.

Enforcement: For efficient administration, a single notice and order form will be used to initiate any of the various enforcement actions provided by the Act. However, it should be noted that certain enforcement actions are available only for certain types of violations.

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.