

**ACP DRAFT COMMENTS ON TITLE 14 and 27 NOTICE OF RULEMAKING**

Submitted by Association of Compost Producers (ACP)

**SPECIFIC LANGUAGE RECOMMENDATIONS**

**We offer the following specific comments and recommendations for changes to the proposed title revisions:**

**P.8, Line 29:** Digestate Definition. Digestate is a product. Recommend: "Digestate" means the solid and/or liquid *product* remaining after organic material has been processed in an in-vessel digester, as defined in section 17896.2(a)...

**P. 9, Line 53:** Land Application. Physical contamination limit (A) of 0.1% is too onerous. Recommend change to 1% with a phase in to 0.5% or lower, as recommended in general comments.

**P.9, Line 54:** The statement "contaminants greater than 4 millimeters" should not imply that the compostable material should be ground to a size 4 mm or less. We recommend eliminating the particle size limit in these regulatory wording, especially since glass particles less than 4 mm, would not be measured, and we would recommend that they should be. This can be more specifically, and operationally, addressed once the sampling and testing protocols are refined, as recommended in the general comments.

**P. 10, Line 2:** Land Application (A) frequency and depth: we believe the limit of 12 inches and 12 months (presumably on non-agriculturally zoned land) is arbitrary and requires more study. The requirement of EA to explicitly consult with RWQCB to approve alternative application depths and frequency is not necessary; this consultation should be at the EA's discretion.

**p. 10, Line 15:** Verification of Compliance: This is unclear as to the form of verification of compliance- please specify the form of verification.

**P. 10, Line 18:** Physical contamination limit (B) for land applied material of 0.1% is too onerous. Recommend change to 1% with a phase in as recommended in general comments.

**P. 15, Line 57:** Agricultural Material Composting Operations: The proposed change appears to be if operation is limited to Agricultural Material, there is unlimited quantity under a Notification Tier permit. We think "unlimited quantity" should be limited to onsite agricultural operations and material. As written there is no limit on massive scale agricultural composting operations, under a notification tier permit, that could compost agricultural material from both on-site and off-site sources. Recommend change to: "If their feedstock is limited to agricultural material generated from on-site agricultural operations, agricultural material composting operations may handle unlimited quantity of agricultural material on the site from which that the material is generated and may sell or give away any or all compost they produce. If the material is generated off-site and transferred to the compost operation site, then the operation is subject to Article 2, 17854 - Compostable Materials Handling Facility Permit Requirements"

**P. 17, Line 5:** Green Material Composting seasonal variations: We agree that seasonal storage adjustments are warranted for operator flexibility. Recommend extending to 120 days, "The EA may grant one more additional 30-day seasonal storage adjustment not exceeding a total of 120 days per calendar year."

**P. 17, Line 35:** Green Material Composting maximum volumes: mandatory cease and desist too onerous. Recommend change to:

"In addition, the EA *may* issue a cease and desist order pursuant to section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation."

**P. 18, Line 48:** Research Composting Operations: ACP would like to encourage additional research operations to advance the science of composting. Recommend: "If the EA determines based on the report that there are further research objectives to be met or data to be gathered, the EA may extend the research for an additional two years. If the EA determines based on the report that there are no further research objectives to be met or data to be gathered, the operator shall conduct site restoration at the facility pursuant to section 17870, or apply for an EA Notification or other applicable permit for the site."

**P. 20, Line 26:** Odor Impact Minimization Plan: Recommend: Remove "and data collection." This may imply more advanced testing methods than may be necessary. We believe it is reasonable to start with qualitative and then move to quantitative (i.e. lab testing).

**P. 20, Line 52:** Odor impact Minimization Plan: Recommend change back to "May direct." We believe that EA should be given latitude to escalate based on individual site, material and receptor circumstances.

**P. 23, Line 35:** Maximum Metals Concentrations: The apparent proposed requirement to have all sample results received prior to material leaving the site is impractical. Normal lab turnaround times are at least 1 week and more often 2 weeks or more. Most composters will want to test their material in "finished piles" where it is ready to leave the composting site. Elsewhere a sampling frequency of one sample per 5,000 yards is proposed, which is reasonable for heterogeneous feedstocks (e.g. food scraps mixed with green material). This may not be necessary for clean homogeneous feedstocks, like manure and biosolids with clean wood shavings or rice hulls. Recommend change to: "Sample results collected at the frequency prescribed in section 17867.1(a)(1) and must be available for review by EA at the composting site."

**P.25, Line 10:** Physical Contamination Limits: As stated in the general comments above, we believe that the Physical Contamination Limits (PCLs), as proposed, have not been adequately studied to be adopted. We also believe that working toward reasonably more stringent and scientifically justified PCLs would benefit both the composting industry and the general public. We therefore propose that CalRecycle form a new "California Compost Standards Working Group," to assess and advise the agency on PCLs. We recommend that this section be revised accordingly.

***implementation language framework:***

Add to section 17853 Definitions: New Definition (and perhaps new sub-section elsewhere in the code): "California Compost Standards Working Group" is a working committee formed by CalRecycle that is comprised of 5-9 representatives from the composting and waste management industry, experts in the academic and scientific community, and members of the regulatory community. The function of the working group is to advise CalRecycle on the industry perspective of the phasing and implementation of Title 14 and 27 standards that are both scientifically based and economically feasible. The working group will advise CalRecycle on topics including but not limited to expanded industry economic impact analysis, development of effective, standardized testing methods, and recommendations on revisions to Title 14 and 27

***Suggested revision:***

**§ 17868.3.1. Physical Contamination Limits.** (a) Upon adoption, and effective until "Physical Contamination Limit Phase In," Compost shall not contain more than 1% by weight of physical contaminants greater than 4 millimeters. Compost that contains more than 1% by weight of physical contaminants greater than 4 millimeters shall be designated for disposal, additional processing, or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur at the point where compost is sold and removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used. Sample results, collected at the minimum frequency prescribed in section 17868.

**§ 17868.3.3. Physical Contamination Limit Phase In (new section).** CalRecycle may adopt new Physical Contamination Limits based on the advice and consensus of the California Compost Standards Working Group. The revised Physical Contamination Limits shall be no more than 1 percent, and no less than 0.1 percent by weight of physical contaminants greater than 4 millimeters. The new Physical Contamination Limits shall be adopted on a timeline as recommended by the working group.

**Note:** this methodology could also be employed throughout the proposed rule changes wherever physical contamination standards are discussed (ie. Physical Contamination for Digestate, P. 47)

**P.27, Line 44:** Digestate definition. Digestate is a valuable soil product, not a waste. Recommend change the definition to: "Digestate means the solid and/or liquid residual *product* remaining after organic material has been processed in an in-vessel digester."

**P.29, Line 11:** Salvaging Definition. This is the same as material recovery. Recommend: Add "(e.g. Material Recovery Facility)."

**P. 30, Line 13:** - In Vessel Regulatory Tiers: Distribution Center In-vessel Digestion Operations is placed in Notification Tier with no volume limit. This seems like an opportunity for large "Distribution Center" food waste AD to be unregulated. Recommend Change: "Small Distribution Center In-Vessel Digestion

Operations (less than 60 yd<sup>3</sup> or 15 tpd)" Distribution center in-vessel digestion operations larger than this should be regulated under "Medium Volume" and "Large Volume" requirements.

**P. 40, Line 9:** Odor Minimization Plan: Recommend change "shall direct" to "may direct"

**P. 41, Line 24:** Scavenging and Salvaging. Recommend: "salvaging of materials, such as metal, paper, glass and cardboard is permitted as an integral part of the operation (e.g. Material Recovery Facility)."

**P. 41, Line 44-51:** Signs: What health and safety purpose does this serve? Recommend: delete and replace:"(a) The EA may require appropriate in-vessel digestion operation or facility signage if it is determined that such signage may promote public health and safety."

**P.42, Line 26:** Training: recommend, "Personnel assigned to the operation or facility shall be adequately trained in subjects pertinent to their job description including solid waste operations..."

**P. 45, Line 12:** Digestate Handling: Digestate is not solid waste, it is a waste derived soil product. Suggest: remove "solid waste" Suggest: "(A) transported to another solid waste facility or operation, or facility that has obtained a Compostable Materials Handling Facility Permit pursuant to section 17854 for disposal, composting, or additional processing; or"

**P. 45, Line 16:** Digestate Handling: Digestate sampling frequency for metals, pathogens, and physical contamination should mirror the compost regulations.(b) should be revised to reflect this sampling/testing standard in section 17896.58 below.

**P.45, Line 28:** Sampling Requirements: Comment: As written this is impractical for in-vessel sites that do not have an attached composting site. Recommend change to: "The sampling of compost and digestate produced at an in-vessel digestion facility (pursuant to section 17896.57(a)(2)) shall occur at the point (1) where the digestate or compost is removed from the site, bagged for sale, given away for beneficial use and removed from the site or otherwise beneficially used, or (2) at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes). Analytical results indicating compliance with sections 17896.59, 17896.60, and 17896.61 shall be received by the operator within 15 business days of digestate being removed from in-vessel digester. Sample results must be received by the operator prior to removing digestate or compost from the in-vessel digestion facility or final composting site where it was produced."

**P.45, Line 45:** Sampling Requirements: Comment: As with compost sampling protocol, if sampling from a conical pile, it seems like you would be getting too many samples from the top half and none from bottom half. Propose Change: (A) 6 samples from the bottom half of the pile, each at a different cross section and height. (B) 6 samples from the top half of the pile, each at a different cross section and height.

**P.46, Line 2:** Maximum Metal Concentrations. Recommend, "Compost and Digestate"

**P.46, Lines 12 and 13:** Maximum Metal Concentrations. Recommend, "Compost and Digestate"

**P. 46, Line 23:** Pathogen Reduction: Comment: The in vessel digestion process will serve as its own pathogen reduction method. There should not be an additional requirement for pathogen kill as suggested, which appears to be “cut and pasted” from the composting pathogen reduction section above. “Provided that in-vessel digestion operations operate at thermophilic temperatures for 3 days, or mesophilic for 15 days, AND pass the pathogen lab test, no further pathogen reduction is required.”

**P.46, Lines 24 and 26:** Pathogen Reduction: Recommend, “Compost and Digestate”

**P. 46, Line 28:** Pathogen Reduction: Recommend: "Sample results collected at the frequency prescribed in section 17896.58(b)(1) must be received by the operator prior to removing compost or digestate from either the in-vessel digestion facility where it was produced, or at the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes)."

**P. 46, Lines 30 and 31:** Pathogen Reduction: Recommend, “Compost and Digestate”

**P.46, Lines 34:** Pathogen Reduction: Recommend: "Sample results collected at the frequency prescribed in section 17896.58(b)(1) must be received by the operator prior to removing product from the in-vessel digestion facility site, or the site of final curing, blending, processing or composting at a fully permitted solid waste facility (reference codes).

**P.46, Line 36:** Pathogen Reduction: Recommend: “(2) at in-vessel digestion facilities using an enclosed or within-vessel digestion process, active Substrate shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days, or 120 degrees Fahrenheit or higher for a pathogen reduction period of 15 days.

Delete (b) 2(A)

**P.46, Line 42:** Pathogen Reduction: Recommend delete and Replace with: “(3) Provided substrate temperatures in an in-vessel digestion facility are maintained according to minimum standards prescribed in section 17896.60(b)(2) and sample results prescribed in section 17896.60 (b) are within acceptable limits, no further pathogen reduction of digestate processed in this manner or compost produced from this digestate, shall be required.”

**P. 46, Line 46:** Pathogen Reduction: Recommend Delete (b)(4), as this is redundant with the composting regulations.

**P. 47, Line 21 and throughout Section:** Physical Contamination Limits: Recommend change to, “compost and digestate”

**P. 47, Line 22:** Physical Contamination Limits: 0.1% contamination limit is too onerous and arbitrary. Please refer to the general comments on Physical Contamination above and also specific comment for P.25, Line 10.

**P. 47, Line 29:** Physical Contamination Limits: Recommend: change to, ". . . compost process or fully permitted solid waste facilities where final curing, blending, processing or composting occurs (reference codes), shall take one representative sample..."