



Submitted by Email: [compost.transfer.regs@calrecycle.ca.gov](mailto:compost.transfer.regs@calrecycle.ca.gov)

May 6, 2015

Ken Decio  
Waste Permitting, Compliance and Mitigation Division  
California Department of Resources Recycling and Recovery  
P.O. Box 4025  
Sacramento, CA 95812-4025

Dear Mr. Decio:

The Almond Hullers & Processors Association (AHPA) is providing the following comments in response to the California Department of Resources Recycling and Recovery's (Department) 15-day Comment Period regarding the "Notice of Changes to Proposed Compostable Materials, Transfer/Processing Regulations" that amend California Code of Regulations, Title 14, Division 7, Chapters 1, 3, 3.1 and 5 and create Chapter 3.2; and, to amend Title 27, Appendix 1.

AHPA is an association representing the California Almond industry and is organized to promote the business interests of its members. Our members represent over 90% of the California Almond industry based on volume.

We appreciate the Department's response to our comment to the original proposal as it relates to the exclusion from these regulations for the handling of materials that could be considered "compostable" at facilities holding a California Department of Food and Agriculture Feed License.

We offer the following comments:

**1. Section 17852 (a)(4.5) "Agricultural By-Product Material."** We are supportive of the Department's proposed definition.

**2. Section 17852(a)(5). Agricultural Material.** In our comment to the original proposal we discussed multiple reasons why we believe that almond processing by-product should be

categorized as an agricultural material and we made a recommendation to specifically include almond processing by-product (sticks, leaves, hulls, shells and nuts) not destined for use as animal feed, animal bedding or biomass in the definition.

The Department's amended proposal now includes a definition of "agricultural by-product material" in addition to the originally amended "agricultural material" definition. The intent of the Department's amended definitions appears to be driving towards a clear differentiation between materials generated on-farm called "agricultural material" during harvest and those generated off-site at facilities called "agricultural by-product material" during food processing.

Our comment to the Department's original proposal provides a good description of the "processing" of almond fruit. Basically, the processing of almond fruit consist of several steps that include handling to remove soil, rocks, sticks, and leaves, then hulling, then shelling – which results in the separation and generation of several by-products: soil, rocks, stick, leaves, hulls, shells, cull nuts and, almond nuts which move onto further processing into food. All of the steps described above that lead to the generation of an almond nut are a direct result of a conduct of agriculture which is technically called "harvest." The material described above retains its essential raw agricultural character at either point it is separated or generated - in the field or at an off-site facility – in a conduct of agriculture called harvest. It's an agricultural material either way.

In addition, for the purposes of implementation of the Federal Food Safety Modernization Act, the Federal Food and Drug Administration has determined that the activities of sorting and separating almond fruit into the various by-products described above are harvest activities that do not alter the raw agricultural nature of almond kernels or almond hulls used as dairy feed.

**Recommendation.** AHPA recommends that the Department amend the agricultural material definition as follows (**in bold double underline red**):

(5) "Agricultural Material" means waste material of plant or animal origin, which result 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 production and processing of farm, ranch, agricultural, horticultural, aquacultural, silvicultural, floricultural, vermicultural, or viticultural products which is separated at the point of generation, and which contains no other solid waste. With the exception of grape pomace **or the material generated by and during nut 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, including but is not limited to, manures, orchard and vineyard prunings, grape pomace, and crop residues.

**3. Rocks and Soil.** On March 3, 2015, the Department held an Informal Workshop to discuss and get feedback on several issue areas regarding the proposed regulation. One area of discussion was the potential to include a definition of agricultural processing by-product in the regulation. The definition as presented excluded rocks and soil but for incidental amounts. We expressed our concern with the proposed definition since almond fruit harvest occurs on the orchard floor and many times more than incidental amounts of rocks and soil are carried in the harvest to processing facilities. Staff replied that rocks and soil are not a regulated material per the regulation and wouldn't be addressed in the definition.

**Recommendation.** For clarity purposes on a go forward basis, AHPA would appreciate the Department addressing the non-regulation of rocks and soil in the rulemaking's final statement of reasons.

AHPA appreciates the collaboration and leadership that you and Bob Holmes provided during the rulemaking. If we can provide you with any additional information regarding the almond industry please don't hesitate to get in contact with me at (209) 599-5800 or [kcovello@ahpa.net](mailto:kcovello@ahpa.net).

Sincerely,



Kelly Covello, President

Cc: Rick Jensen, Director, Division of Inspection Services, CDFA.  
Amado Ba, Chief, Feed, Fertilizer and Livestock Drugs Regulatory Services, CDFA  
Jenna Areias, Chief, Feed and Livestock Drugs Inspection Program, CDFA  
Dale Woods, Chief, Fertilizing Materials Inspection Program, CDFA