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**VENTURA COUNTY LOCAL ENFORCEMENT AGENCY PUBLIC COMMENTS -
NOTICE OF CHANGES TO PROPOSED COMPOSTABLE MATERIALS,
TRANSFER/PROCESSING REGULATIONS 15 DAY COMMENT PERIOD**

The Ventura County Environmental Health Division, as the Local Enforcement Agency (EHD/LEA) for enforcement of laws and regulations pertaining to solid waste in Ventura County prepared the following comments and recommendations pertaining to the proposed changes to Title 14, California Code of Regulations.

1. Section 17852(a)(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.

COMMENT: The term "Agricultural By-Product Material" conflicts with the definition of "agricultural material" and "food material" as defined in Section 17852. By adding this definition, this material cannot be accepted at an Agricultural or Green Composting Operation and would be limited to land application or a fully permitted composting operation.

RECOMMENDATION: Refine the definition to identify the acceptable uses other than land application.

2. **Section 17852(a)(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:

COMMENT: A temperature threshold of the processed material should be added to the definition to ensure that chipping and grinding operations produce a

“mulch” product for land application that is stable and minimizes the potential for rapid decay, odor, fly breeding, and pathogen transmission.

RECOMMENDATION: Change the definition to read as follows: “Chipping and Grinding Operations and Facilities” means an operation or facility, that does not produce active compost, that mechanically reduces the size...”

3. **Section 17852(a)(20):** “Food Material” means any a waste material of plant or animal origin that was acquired for 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 may includes, but is not limited to, material food waste from food facilities as defined in Health and Safety Code section 113785 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), or and residential food scrap collection. Food , and that does not meet the definition of “agricultural material.” 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 of percent physical contaminants by dry weight, and meets the requirements of section 17868.5.

COMMENT: The term “dry weight” is undefined. If the definition “dry weight basis” is used, the requirement would involve desiccation in a laboratory environment and would not produce timely results. Since “vegetative food material” is 80-95% water by weight,¹ sample analysis would not be accurate for dried weight. The sampling is impractical for the operator and LEA. (NOTE: The word “dry” has been added to “weight” throughout the compost regulations).

¹ Sandra Bastin, Foods and Nutrition Specialist and Kim Henken, Extension Associate for ENRI. Information taken from Bowes & Church’s Food Values, 1994, <http://www2.ca.uky.edu/enri/pubs/enri129.pdf>

RECOMMENDATION: Strike the word “dry” in all subsections that refer to contamination by weight in definitions related to feedstock provided to composting operations.

Strikeout **“of”** from subsection (A) “Vegetative food material contains no greater than 1.0 of percent physical contaminants by dry weight, and meets the requirements of section 17868.5.”

4. **Section 17852(a) (24.5):** “Land Application” means either subdivision (A) or (B):
(A) The final deposition of compostable material and/or digestate spread on any land, including land zoned only for agricultural uses, under the following conditions:
1. On and after January 1, 2018, Tthe compostable material and/or digestate does not contain more than 0.10.5% by dry weight of physical contaminants greater than 4 millimeters (no more that 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;

COMMENT: Increasing the concentration of contaminants to 0.5% is not environmentally sound. For example, assuming a yard of compostable material or digestate weighs 1600 pounds, 0.5% contamination level translates to approximately 1/3 pound of solid waste per cubic foot of land applied material. This concentration will ultimately increase as the material decomposes into topsoil. Material sampling for contamination should be practical and provide timely results.

The deposition of chipped and ground material originating from a Chipping and Grinding Operation or Facility onto land awaiting sample analysis for metals and pathogen reduction may create issues with odors, vectors, and inadvertent composting.

RECOMMENDATION: Maintain the proposed contamination level at 0.1% by weight. This section is a prescriptive requirement and should be contained in a separate section for land application. It is not a definition.

5. **Section 17852(a) (24.5)(A)(4):** a. On land not zoned for agricultural uses, Tthe 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 shall not exceed an average of 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the Regional Water Quality Control Board, may approve alternative application frequencies and depths, if the EA after such consultation determines that the alternatives will not adversely affect public health and safety or the environment.

COMMENT: Land application should be for agronomic benefit or beneficial reuse, not disposal. The use of this material in commercial or industrial areas will increase public nuisance complaints caused by odors and vectors. Section numbering is not consistent with regulatory format, (subsection contains two “a”s).

RECOMMENDATION: Land application should be limited to parcels zoned as “agriculture or “open space.” This section is a prescriptive requirement and should be contained in a separate section for land application. It is not a definition.

6. **Section 17852(a) (24.5)(A)(4): b.** On land zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than three times during a 12 month period, and, at the time of the land application, the compostable material shall not exceed 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality, may approve alternative frequencies and depths, if the EA after such consultation determines that the alternative will not adversely affect public health and safety or the environment. The Department shall coordinate all EA requests for consultation with the California Department of Food and Agriculture.

COMMENT: The application rate is not agronomic. Rates of three times per year may result in active compost (sheet composting), and may also create a fire hazard. The application of this material in these quantities will increase public nuisance complaints caused by odors and vectors.

The sentence, “*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,*” is compound and is not a definition.

RECOMMENDATION: This section is a prescriptive requirement and should be contained in a separate section for land application. Land application should be limited to **once** per year. Also, modify the following sentence to read, “The EA, **in consultation may consult** 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 **to** determine that the alternative will not adversely affect public health and safety or the environment. **The property owner may submit to the EA a written request and justification, based upon site-specific conditions, to allow alternative frequencies and depths of land application.**”

GENERAL RECOMMENDATION: The term “mulch” should be defined and land application should be limited to compostable material that has been mechanically reduced in size through the process of chipping, grinding or screening. Compostable material that contains bulky material such as branches, stumps or palm fronds will not readily decompose.

7. **Section 17856(d)(2)(B):** Operations located on land that is not zoned for agricultural uses and operations that sell or give away 1,000 cubic yards or more

of compost per year may handle an unlimited amount of agricultural material, but may not stockpile more than 12,500 cubic yards of green material feedstock on the site at any time.

COMMENT: The EHD/LEA is aware that there is no proposed change to this section for this current round of comments. However, we offer the follow comment for your consideration: Any green material composting operation may be in this category if they handle a small amount of agricultural material, qualifying as an Agricultural Material Composting Operations with only an EA Notification. Furthermore, the section is silent on the amount of active compost and stabilized compost quantities. This creates a loophole in the regulations.

RECOMMENDATION: The total volume of material onsite should be limited to 12,500 similar to a Green Material Composting Operation. Modify the language to read: Operations located on land that is not zoned for agricultural uses and operations that sell or give away 1,000 cubic yards or more of compost per year may handle an unlimited amount of agricultural, but may not stockpile more than 12,500 cubic yards of green material feedstock on the site at any time. shall be regulated as a green material composting operation.

8. Section 17862.1(d) On and after January 1, 2018, a chipping and grinding operation or facility shall sample every 5,000 cubic-yards of chipped and ground material produced and determine the percentage of physical contaminants greater than 4 millimeters in the sample using a method that provides accurate results and has been approved by the EA. If the chipping and grinding operation or facility produces less than 5,000 cubic-yards of chipped and ground material in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period. The determination of the percentage of physical contaminants shall occur prior to the point where material is removed from the site. Any chipped and ground material that will be land applied must meet the physical contamination requirements of section 17852(a)(24.5).

COMMENT: The sampling frequency needs to be more robust. The volume described in this section translates to approximately 50 long-haul transfer trailers of material for each required sample. Furthermore, samples are not required to be composite. For smaller operations, this will only require minimal sampling and may lead to excessive contamination levels. Material sampling should be timely and should be practical in the field.

RECOMMENDATION: Reduce the volume to require a composite sample for every 1000 cubic yards of chipped and ground material.

9. Section 17862.1. Chipping and Grinding Operations and Facilities.
(a) A chipping and grinding operation that receives up to 2 00 tons per day of material that may be handled by a green material composting operation shall comply with the EA Notification requirements set forth in Title 14, California Code

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 of percent physical contaminants by dry weight, and meets the requirements of section 17896.61.

COMMENT: The term “dry weight” is undefined. If the definition “dry weight basis” is used, the requirement would involve desiccation in a laboratory environment and would not produce timely results. Since “vegetative food material” is 80-95% water by weight,¹ analysis would not be accurate for dried weight.

¹ Sandra Bastin, Foods and Nutrition Specialist and Kim Henken, Extension Associate for ENRI. Information taken from Bowes & Church’s Food Values, 1994, <http://www2.ca.uky.edu/enri/pubs/enri129.pdf>

RECOMMENDATION: Strike the word “dry” in all subsections that refer to contamination by weight. Maintain the current contamination level at 0.1% by weight.

12. **Section 17896.5 – Table 1**

<u>Excluded Tier</u>	<u>Enforcement Agency Notification Tier</u>	<u>Registration Permit Tier</u>	<u>Full Solid Waste Facility Permit</u>
Anaerobically digestible materials at POTWs Section 17896.6(a)(1)	Research In-Vessel Digestion Operations Section 17896.8	Medium Volume In-Vessel Digestion Facilities ≤ [average between 15 tpd (60 yd ³) or 15 tpd and ≤ 100 tpd, not to exceed 700 tpw (2,800 yd ³)] Section 17896.12	Large Volume In-Vessel Digestion Facilities ≤ [average > 100 tpd, average > 700 tpw (2,800 yd ³)] Section 17896.13
Ag material derived from ag site & returned to same site Section 17896.6(a)(2)	Dairy In-Vessel Digestion Operations Section 17896.9		
	Distribution Center In-Vessel Digestion Operations Section 17896.10		
In-vessel digestion activities with less than 100 cubic yard on-site capacity Section 17896.6(a)(3)	Limited Volume In-Vessel Digestion Operations ≤ [average < 15 tpd (60 yd ³), or 15 tpd not to exceed 105 tpw (420 yd ³)] Section 17896.11		
Handling activities that are already subject to more stringent handling requirements under Federal or State law Section 17896.6(a)(4)			

COMMENT: The conversion of 4 yards per ton of AD feedstock is not accurate since the material is predominantly manure, food and vegetative waste. Considering mixed municipal sources of feedstock can have a moisture content

of approximately 74% ², the average weight of food waste weight is 1500 pounds per cubic yard. ³

² Steffen et al. (1998); <http://www.sciencedirect.com/science/article/pii/S0960852406000940>

³ <http://recyclemaniacs.org/sites/default/files/documents/Volume-weight-conversions.pdf>

RECOMMENDATION: Revise Table 1 to use a conversion of .75 tons per cubic yard of feedstock. As an alternate, eliminate the volume reference.

13. **Section 17896.61. Physical Contamination Limits.**

This section shall become operative January 1, 2018.

1. Compost produced at an in-vessel digestion facility (pursuant to section 17896.57(a)(2)) shall not contain more than 0.40.5% 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. Compost that contains more than 0.1% by weight of physical contaminants greater than 4 millimeters in excess of either one or both of these limits shall be designated for disposal, additional processing, disposal, or other use as approved by local, state and federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur at prior to 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 or beneficially used on-site. Sample Test results of samples must be received by the operator prior to removing compost from the in-vessel digestion facility where it was produced.

COMMENT: The term “dry weight” is undefined. If the definition “dry weight basis” is used, the requirement would involve desiccation in a laboratory environment and would not produce timely results. Since the moisture content might vary drastically based on the type of AD process or post-treatment processing using dry weight is not accurate.

RECOMMENDATION: Strike the word “dry” in all subsections that refer to contamination by weight.

14. **Section 18103.1 Filing Requirements**

(3) Documentation that the operator has notified the local planning department with jurisdiction over the site of its intent to commence operations. Documentation may include, proof of compliance with CEQA, correspondence from the local planning department that compliance with the California Environmental Quality Act is not required for the operation to obtain local land use approval or written notice to the local planning department of the operator's intent to commence operations.

COMMENT: The EHD/LEA is aware that there is no proposed change to this section for this current round of comments. However, the following comments for your consideration: LEA’s continue to have problems with the option of **“written notice to the local planning department of the operator's intent to**

of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with section 18100), ~~except as otherwise provided by~~ and the applicable requirements specified in this Chapter.

COMMENT: Chipping and grinding operations that produce a “mulch” product for land application should not be exceeding temperature thresholds within the processed piles where decomposition can occur. Mulch material for land application should be stable and minimize the potential of rapid decay, odor, fly breeding, and pathogen transmission.

RECOMMENDATION: Add section (h) that reads as follows: “If a chipping and grinding operation or facility is observed handling active compost more than three times in a one year period, the operation shall be regulated as a green material composting operation or facility, as set forth in this Chapter. Feedstock piles are excluded from temperature requirements, provided the piles are chipped and ground within same day of receipt.

10. **Section 17868.3.1. Physical Contamination Limits.**

This section shall become operative January 1, 2018.

a. Compost shall not contain more than 0.10.5% 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. Compost that contains more than 0.1% by weight of physical contaminants greater than 4 millimeters in excess of either one or both of these limits shall be designated for disposal, additional processing, disposal or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur at prior to 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 or beneficially used on-site. Sample Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.

COMMENT: The term “dry weight” is undefined. If the definition “dry weight basis” is used, the requirement would involve desiccation in a laboratory environment and would not produce timely results and the sampling impractical for the operator and LEA. Material sampling should not be onerous on the operator and should be practical in the field.

RECOMMENDATION: Strike the word “dry” in all subsections that refer to contamination by weight. Maintain the current contamination level at 0.1% by weight.

NOTE: CalRecycle should develop a procedure that is capable of determining contamination levels in the field for both operators and LEA.

11. **Section 17896.2(a)(12)(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

commence operations". This option allows operators to begin operations without approval from the local planning department, fire department or other agencies. Local entitlements are typically administered through the planning department.

RECOMMENDATION: Revise the language of this subsection to read, "(3) Documentation that the operator has notified the local planning department with jurisdiction over the site of its intent to commence operations. Documentation includes proof of compliance with California Environmental Quality Act (CEQA) or correspondence from the local planning department that compliance with ~~the California Environmental Quality Act~~ CEQA is not required for the operation to obtain local land use approval ~~or.~~"

The Ventura County LEA appreciates the opportunity to submit public comments as part of the rulemaking process. Should you require any additional information or clarification regarding the aforementioned comments and recommendations, please contact Sean Debley at 805/654-2433 or sean.debley@ventura.org .



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