



# CALIFORNIA FARM BUREAU FEDERATION

GOVERNMENTAL AFFAIRS DIVISION

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December 4, 2014

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

**RE: California Code of Regulations, Title 14, Division 7, Chapter 3.1**

Dear Mr. Decio,

I appreciate your willingness to discuss the proposed changes to CCR, Title 14, Division 7, Chapter 3.1 regarding compostable materials used on agricultural lands. Farm Bureau shares the concerns of CalRecycle that there will be more pressure to dispose of compostable materials in less than beneficial ways as landfills are further restricted and shut down. Farm Bureau does not support unscrupulous or absentee land owners being allowed to dump large amounts of compostable materials. This will be nuisance for all those who live in rural areas, especially the agricultural community.

That being said, we are also concerned that some farmers and ranchers might want to apply compostable materials more than once a year in varying amounts that fit their operational needs for soil fertility and weed suppression. We previously offered language to allow this flexibility without adding extra oversight burden and cost, but it was not included in current proposed general definitions in Section 17852 (a) (24.5) for Land Application.

That language is provided below. This language is reformatted and updated from a definition already used in state statute AB 426 (Cardoza, 2001). It is used in state law now to determine who gets partial sales use tax exemption for agricultural inputs and equipment. The state statute refers to the SIC code that has since been replaced with NAICS. I have the NAICS code hyperlinked so you can look at it. Everyone who is in the business of farming in CA files a schedule F using this set of codes.

This proposed language gives flexibility only to real farmers and ranchers who might want more than annual applications at the depth they determine meets their needs. It keeps the scofflaws and absentee land owners who might try to abuse the land application provision under your annual 12 inch requirement. But likewise, it prevents any agency from being burdened with additional responsibility and costs. If there is a complaint or concern regarding a farmer or rancher that has received an

application that does not meet the pathogen, metal and contaminants or total annual land application of 12 inches, the EA can request proof of the Schedule F.

(24.5) "Land Application" means either subdivision (A), (B) or (C):

(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. The compostable material does not contain more than 0.1% by weight of physical contaminants greater than 4 millimeters as specified in section 17868.3.1;
  2. The compostable material meets the maximum metal concentrations as specified in section 17868.2;
  3. The compostable material meets the pathogen density limits as specified in section 17868.3(b)(1);
- and
4. The compostable material is not applied more frequently than once during a 12 month period, and, at the time of the application, the compostable material shall not exceed an average of 12 inches in total, accumulated depth. 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.
  5. Verification of compliance with this subdivision must be provided to the EA upon request.

(B) The final deposition of compostable material spread on land zoned only for agricultural uses under the following conditions:

1. The compostable material does not contain more than 0.1% by weight of physical contaminants greater than 4 millimeters; and
2. Prior to application, the California Department of Food and Agriculture (CDFA) has determined that the land application is in compliance with all applicable requirements established by CDFA under Title 3 of the California Code of Regulations, and CDFA has determined that the land application is agronomically beneficial; and
3. Prior to application, the EA has received confirmation that CDFA has made the determination specified in (B) 2. above.

**(C) A person engaged in a line of agricultural business as described in Sector 11, Codes 111 to 113, inclusive of the North American Industry Classification System (NAICS) who file Schedule F, Profit or Loss from Farming, can apply alternative application frequencies and depths of compostable material to their agricultural operations, but shall not exceed an average of 12 inches in total, accumulated depth per year. The compostable material must meet the physical contaminant, maximum metal concentrations and pathogen density limits required in (A) 1-3 above. Upon receipt of a complaint regarding land application of compostable material on an agricultural operation, an EA may request proof that the person who owned the land or authorized the land application filed Schedule F within the current tax period and the compostable material met the requirements in (A) 1-3.**

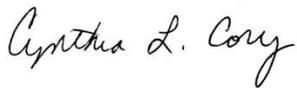
*[Note: This subdivision (a)(24.5) does not apply to: 1) the use of compost produced in compliance with Article 3.1 and/or 3.2 of this Division, 2) the use of compostable material for gardening or landscaping on a parcel of land 5 acres or less in size, 3) the final deposition of compostable material spread on land by a Federal, State, or local government entity, provided the material is applied in accordance with applicable law, 4) beneficial reuse at a solid waste landfill pursuant to Title 27, California Code of Regulations, section 20686, or 5) 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. In addition, 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 district's or air pollution control districts, local land use authorities, and fire authorities.

Secondly, in discussions with the composting industry, it has been brought to our attention that meeting the 0.1% by weight of physical contaminants is not attainable. There is a significant increased cost of over \$50 million in attempting to meet this contamination level which could lead to a reduction in available organics processing and composting capacity. Also, the proposed physical contamination level is virtually unattainable according to the Soil Control Labs, the most widely used laboratory for testing in California that stated their current methodology can test at its lowest to a .5% contamination level. As you are aware, CalTrans established a new dry weight compost specification of .5% for plastic, glass and metal physical contaminants on January 16, 2014 based on what labs can currently detect. It is unclear whether this level is actually being applied in practice as the industry has not had time to fully evaluate it. Given the significant cost assumed with the proposed contamination level, as well as the lab testing limitations outlined by Soil Control Labs and Caltrans, we support a 1% target physical contamination level. A standardized and repeatable lab protocol in combination with a reasonable containment target level of 1% target will meet the health and environmental goals of the regulation and be achievable by the industry.

We thank you for consideration of our comments and stand ready to work with you as these proposed regulations move forward

Sincerely,



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**California Farm Bureau Federation**  
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