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2 RECYCLING AND RECOVERY
3 Public Hearing on Proposed Regulations for
4 Compostable Materials, Transfer/Processing
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7 TRANSCRIPT OF PROCEEDINGS
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A P P E A R A N C E S

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Ms. Sue O'Leary, Senior Environmental Scientist

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Ms. Susan Markie, Environmental Program Manager II

Ms. Melissa Hoover-Hartwick, Integrated Waste Management Specialist

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SACRAMENTO, CALIFORNIA, December 10, 2014

1:31 p.m.

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MR. HOLMES: Okay. Good afternoon, everyone, and welcome to the public hearing to receive comments on the proposed regulations for compostable materials, transfer/processing. You may have -- also have heard us refer to them as the compost and in-vessel digestion regulations, one in the same.

My name is Robert Holmes. I'm a manager of a training and assistance section here at CalRecycle and responsible for this particular rulemaking. To my right is Ken Decio. You have probably seen his name associated with the rulemaking. He's the project lead and the single point of contact for this rulemaking. There are a number of other folks that have been participating in our -- will be helping out today and I should point them out to you because you may need to locate them later on during the hearing. So Cody Oquendo and Martin Perez over here.

We'll have speaker slips available. There's some speaker slips on the back table, too. I'll explain how that's going to work in a minute. Sue O'Leary is in the room. Harllee Branch with our legal office is sitting

1 up in the front here and then Sue Markie and Melissa
2 Hoover-Hartwick are manning the computer behind me to my
3 left here for those folks that are submitting comments
4 as they listen to the broadcast of the hearing.
5 I just have a few opening remarks here and then
6 -- pretty much going to get out of your way and give the
7 floor to you because we want to hear from you. That's
8 the purpose of today's meeting is to provide additional
9 opportunity for interested parties to provide oral and
10 written comments to us on the proposed regulations, so
11 essentially an extension of the 45-day public comment
12 period. If you have already submitted written comments
13 to us, those are part of the rulemaking record, and the
14 Department will respond to those per the rulemaking
15 protocol. So it is not necessary for you to repeat
16 those comments to us today. If you do feel the need to
17 give us the highlights of your letter, then please do
18 that and pick out the -- your top two or three
19 highlights and that will be perfectly fine.
20 So we are obligated under the rulemaking of rules
21 to notify or to notice anybody providing testimony
22 today, and so the way we will capture your contact
23 information is by use of the speaker slips. There are
24 some on the back table, and then Cody and Martin will
25 have some available, too. Just catch their eye, and

1 they'll hand you one. Please fill that out. Give it
2 back to Cody or to Martin, and they'll bring it up to
3 Ken and me here, and then when we're ready to go, we
4 will call your name, and probably the next two or three
5 in the queue, so that we can keep things moving
6 smoothly. And come up to the podium that's to my left
7 here, to your right, and deliver your testimony.
8 The hearing is being broadcast on the web. So --
9 and is also being recorded behind us -- so please speak
10 clearly into the microphone. State your name and your
11 affiliation so that those listening in to the broadcast
12 and the reporter can hear you clearly. At the end of
13 today's hearing, we will discuss the next steps
14 regarding the proposed regulations and what we will do
15 with the comments we received.
16 A little bit on facility business here, restrooms
17 are located out the two doors behind you. Take a left
18 into the hallway, to the left, both the ladies room and
19 the mens room is located there. The storm is not
20 planning to come until tomorrow but in the event of an
21 alarm, you -- we will need to evacuate this room and
22 take the stairs down to exit the building and relocate
23 it, most likely, to Cesar Chavez park, which is in this,
24 just, general direction. If you cannot use the stairs,
25 you will be directed to a protected vestibule inside the

1 stairwell.
2 So a little bit about the format today. So
3 essentially, very simple, you talk and we listen and
4 record. Staff may answer very basic questions such as
5 where a standard or a definition is located in the
6 regulations, but since this is our opportunity to hear
7 from you, we will not be discussing why we worded things
8 in one way or another and why we made changes in certain
9 areas.
10 Okay. So I've got two speaker slips so far. So
11 again, in the back -- and I have already been asked this
12 morning -- if your name is called and you prefer to
13 go -- to have someone go -- else -- someone else go in
14 front of you, that's fine. Just defer and we'll move
15 your name further down on the list and call you later.
16 Right. Very good. So in keeping with the -- our
17 obligation to notify or notice folks testifying today,
18 you will see on the bottom of the speaker slips, we're
19 asking you to provide either your email or a postal
20 address. That is because the Administrative Procedures
21 Act says that we can transmit comments electronically to
22 you but only if you express the willingness to do that.
23 So by providing your email, you're saying that you're
24 willing to receive those from us electronically. If
25 you're not, then please provide your postal address.

1 Okay. Any questions about the format before we
2 jump into the formal hearing?
3 Okay. Very good. So I know, Tom Wolfe, you were
4 the first in, but I think you said you wanted to defer;
5 is that true?
6 MR. WOLFE: No.
7 MR. HOLMES: Oh, that was somebody else
8 then. Okay. So Tom Wolfe and Bryan Kumimoto followed
9 by Timothy Ruby.
10 MR. KUMIMOTO: My name is Bryan Kumimoto.
11 I'm a solid waste manager for Stanislaus County, and we
12 have submitted written comments. I'll try to be brief
13 instead of going through the entire passage.
14 Stanislaus County is one of the few counties that
15 currently has a food processing byproducts program. The
16 byproducts program is -- products like peels, purees,
17 leaves, and cores, ripe fruit skins -- this is, kind of,
18 the byproducts that are coming from our canneries.
19 Currently, we have probably the only certified and
20 recognized program both by -- well, then it was
21 Integrated Waste Management Board -- and we are
22 regulated through the Regional Water Quality Control
23 Board for waste discharge, and also the Air Pollution
24 Control Board has issued a waiver from their composting
25 regs, and we went into more detail in the writings on

1 that. But since our program is, kind of, unique, we
2 wanted to make sure that it didn't get included with the
3 composting regs even though these are compostable
4 material. From the very beginning of our program, we
5 have diverted eight million tons of food processing
6 byproducts. Part of that gets land applied, and I think
7 that's the part that we were concerned about. It's
8 being used as a soil amendment, and Tom is going to go
9 into a little more into the program following my
10 presentation.
11 In 2003 -- is when the Regional Water Quality
12 Control Board recognized our program and decided to
13 regulate it, and in 2006, they issued a waiver which
14 allowed us to continue the program. Currently, we're
15 under a Regional Water Quality Control Board waiver. We
16 also like -- mentioned earlier, we also have an Air
17 Pollution Control Board waiver up from their composting
18 regs, and today, we're hoping to get a similar waiver
19 from the composting regs under the rule 4566 from the
20 San Joaquin Air Pollution Control Board. The facilities
21 that stockpile organic -- and this is under their
22 exemptions section -- that stockpile organic materials
23 on site and are not considered a compostable facilities
24 are exempt from the requirements of the rules, and also
25 it goes into the organic materials that is specifically

1 stockpiled on site, operations, other than composting
2 providing that an operator is not intentionally
3 conducting pathogenic reductions on organic materials.
4 Other operations include, but are not limited to, animal
5 feed and -- or nutritional products. And that's another
6 part of our food processing byproduct program. We also
7 allow for those products to be fed to cattle. And
8 we under -- permits from our county, we regulate all
9 those sites. We inspect them on a weekly basis to
10 alleviate nuisances.
11 And so today, we're going to be asking that we
12 also receive a similar exemption. It's reuse. It's not
13 composting and we don't want -- we have enough
14 regulations as it is currently. We have our own
15 ordinance besides having to meet the requirements of the
16 Regional Water Quality Control Board, and the Air Board
17 has already given us an exemption.
18 Now I wanted Tom, who's in charge of our
19 inspection program, to, kind of, give you the
20 distinction between this program and composting. So
21 I'll turn it over to Tom.
22 MR. WOLFE: Thank you, Bryan. Thank you,
23 Ken and Robert. I'm Tom Wolfe. I work for Stanislaus
24 County, Department of Environmental Resources as a
25 senior environmental health specialist in the solid

1 waste division, and as Bryan said, I'll oversee the food
2 processing byproduct program. The vision that I'd like
3 to express this afternoon relevant to the proposed
4 revisions of the existing Title 14 is to amend the
5 county's food processing byproduct program into the
6 proposed regulations, specifically Section 17855, as an
7 excluded activity. I'd like to provide you with some
8 framework of the byproduct reuse program in the county
9 and help support our position.
10 To start out, the food processing byproducts go
11 to three basic sites. The first site is a direct feed
12 site, and this is direct feed for cattle and cows, and
13 it's mixed with the food, so it's a supplement to the
14 feed for cows. It doesn't have a chance to compost
15 because it's used right away. The second type of the
16 site is dehydration site, and this could be like grape
17 pomace, chopped potatoes for example, and commodities
18 with low moisture content. And these commodities are
19 allowed to dry in the heat of the San Joaquin Valley on,
20 like, a concrete pad which prohibits percolation. So
21 these dehydration sites allow product to be further used
22 for a secondary purpose. They're collected as a product
23 filler or some other commercial purpose. And thirdly,
24 the main area where the food processing byproducts go
25 is, what we call, to a land application site. And what

1 these are -- sites that are several hundred acres in
2 size and one side is in fallow. So the fallow field
3 receives the product from the back of a 6,000 gallon
4 tanker truck, and they uniformly apply the byproduct to
5 the soil surface, which enhances air circulation and
6 helps maintain aerobic conditions during the drying
7 process. These products have a high nutritional value
8 to certain crops when applied to soil in correct
9 agronomic rates. A best management practice manual has
10 been developed by researchers from California State
11 University Stanislaus and California State University
12 Fresno, and the manual outlines in detail how the land
13 application sites are to be prepared for and how they
14 are to receive the byproduct to provide the best use of
15 product for the benefit of the crops.
16 Enforcement. Each site is inspected weekly like
17 Bryan mentioned, and the inspector follows a checklist
18 paying particularly attention to possible nuisance
19 conditions such as flies, odors, vectors, and site
20 runoff. If violations are identified, the permit holder
21 is notified.
22 County Compliance. Stanislaus County provides
23 the State Regional Water Quality Control Board with an
24 annual report, which is this. It's due in April of each
25 year, and it details specifically the tunnage of all the

1 commodities received at each site including the source
2 of the product, and it includes laboratory analytical
3 data of the commodities. The county has received an
4 extension of the waiver of the discharge requirements
5 from the Regional Water Quantity Control Board after
6 their review last December.
7 To summarize, I'd like you to consider our
8 request that the Stanislaus County Food Processing
9 Byproduct Reuse Program be amended into the proposed
10 compostable material, transfer/processing regulations
11 Section 17855 as an excluded activity for the following
12 reasons: The program is recognized by CalRecycle as an
13 approved waste diversion program; two, the program is
14 recognized by the Regional Water Quality Control Board,
15 is adequate to prevent the creation of nuisance
16 conditions, prevent impacts of surface water; three, the
17 program is exempt from oversight by the San Joaquin
18 Valley Air Pollution Control District organic material
19 composting rule; and four, the program is sufficiently
20 regulated by the local ordinance, and additional program
21 oversight would be redundant. So thank you.
22 MR. HOLMES: Thanks, Tom and Bryan.
23 Next up is Timothy Ruby followed by Rachel
24 O'Brien and then Rob Neenan.
25 MR. RUBY: Thank you for the opportunity to

1 comment today. I'm Tim Ruby from Del Monte Foods. I am
2 Del Monte Food's corporate environmental water manager.
3 I have a Masters degree in plant and soil science, and
4 over the past 30 years, I have been involved in
5 permitting the management of process wastewater of
6 composting biosolids and various byproduct management
7 sites operations first as a state regulator and then as
8 a consultant and now as a company manager. Del Monte
9 operates a tomato processing facility in Hanford and a
10 fruit packing facility in Modesto. Our two factories
11 employ well over 2,000 employees during the summer
12 packing season months. The facilities are responsible
13 for approximately 14,000 contracted acres of California
14 farmland and approximately 550,000 tons of tomatoes and
15 fruits annually. We do not speak -- typically speak at
16 public hearings but we felt it was particularly
17 important to speak at this hearing to urge your
18 department to closely reevaluate the proposed rules and
19 not rush to adopt the rules in their current form. We
20 state this because the rules as currently drafted will
21 not encourage statewide reuse, recycling of composted
22 materials and will frustrate existing, longstanding,
23 safe, environmental friendly reuse, recycling in various
24 organic byproducts including those generated by our
25 facilities now used to feed farm animals and to

1 fertilize organic farmland soils.
2 Byproducts that we have been successfully
3 recycling, reusing animal feed and in direct line
4 application for well over 30 years include pomace,
5 peelings, skins and seeds. These byproducts are not
6 mixed with plant trash and/or municipal green waste.
7 These byproducts are hauled from our factories in
8 sealed, covered trailers on a daily basis to fully
9 licensed management sites where they are processed into
10 animal feed and/or are directly land applied providing
11 valuable use of nutrition rather than being wasted. All
12 of our own and contracted byproduct management
13 operations operate under county and/or Regional Water
14 Quality Control Board permits, orders, or WDRs. These
15 permits are very prescriptive and ensure operations do
16 not cause nuisance conditions and that byproducts are
17 properly land applied, recycled to be productive --
18 protective of soil and groundwater quality.
19 We are particularly concerned with the
20 definitions of agricultural materials and land
21 application and imposed role in that these definitions
22 reclassify our plant food processing byproduct as solid
23 waste now subject to your department's jurisdiction. We
24 hope that this is not your intention because we do not
25 handle our transfer of our plant byproducts for

1 composting, and our byproducts are not in any shape or
2 form waste. Our views in regard to the proposed rule
3 definitions, agricultural materials, and land
4 applications are more artfully articulated in written
5 comments submitted to you by the California League of
6 Food Processors and the Manufacturers Council of the
7 Central Valley, and we encourage you to carefully
8 consider all of the recommendations offered by these two
9 organizations in the rewrite of the proposed role.
10 Please keep in mind that over the restrictive and
11 particularly conflicting, confusing agency roles as
12 proposed could derail all of our company, industry
13 efforts to promote the safe, effective reuse, recycling
14 of food processing byproducts and animal feeding and
15 land application. This would be a particularly terrible
16 outcome for food processors, farmers, and animal feeders
17 as well as hurt statewide recycling efforts goals.
18 Accordingly, we urge your department to work more
19 closely with all affected stakeholders including other
20 state agencies, namely, the California Department of
21 Agriculture and the state Water Resources Control Board
22 to develop a sensible, straightforward set of rules that
23 do not disrupt currently effective food processing
24 byproduct reuse, recycling operations and that further
25 encourage statewide organic material composting with

minimally restrictive end uses of properly composted materials. In particular, we strongly suggest that your department work closely with soil scientists, agronomists, and take a scientific, agronomic approach to setting any compost applications rates in a new role and that an overly restrictive, confusing approach would discourage end users of composting materials. Thank you.

MR. HOLMES: Thanks, Tim.

Rachel O'Brien followed by Rob Neenan and then Cory Bullis.

And as Rachel is coming up, let me just repeat that if anyone came in after instructions were given early on, we are asking those wishing to give testimony to fill out speaker slips. There should be some on the back table and/or raise your hand and Martin or Cody will hand one to you. Thanks.

MS. O'BRIEN: Good afternoon. My name is Rachel O'Brien, and I'm here today representing the Agricultural Council of California. We represent approximately 15 farmers across the State of California, ranging from small, family owned businesses to some of the world's best known brands. We appreciate the opportunity to comment on the proposed revisions to CalRecycle's compostable materials transfer and

1 processing regulations and would like to note that we
2 also submitted additional comments in writing last
3 Friday.
4 To start, I'd like to state that we do understand
5 and share CalRecycle's primary concern of protecting
6 public health and safety and mitigating environmental
7 hazards that have been attributed to mishandling final
8 deposition of compost. However, our review of the
9 proposed regulations reveal concerns that they cause
10 some -- more confusion and clarity in the agricultural
11 community and they unnecessarily place agricultural and
12 food processing byproducts under a regulatory structure
13 that is -- really, what we think -- intended to regulate
14 composting operations and, kind of, final deposition of
15 finished compost. And we believe that the revisions --
16 the revised definitions of agricultural materials --
17 disposal, land application -- you know, may have the
18 unintended impacts of beneficial uses of agricultural
19 byproducts if the rules were to go forward as proposed.
20 We furthermore have some serious concerns about the
21 regulations pertaining to the dairy industry
22 specifically dairy digesters. This technology promises
23 the potential to create renewable energy, reduce
24 environmental impacts, and we ask that CalRecycle work
25 with us to help this technology overcome existing

1 barriers and avoid regulatory duplications and overlap
2 with CDFA and the Regional Water Quality Control Board.
3 Due to the complexity of the proposed regulations, we do
4 think that significant more time is needed to study the
5 issue, and we have asked in our written comments that
6 the period to comment be extended to additional 45 days
7 to allow our stakeholders to better understand and what
8 we think will provide additional useful comments on the
9 proposed regulation.
10 We'd like to thank you for your time. We look
11 forward to working with CalRecycle to address these and
12 others concerns that have been raised by the
13 agricultural community. Thank you.
14 MR. HOLMES: Thanks, Rachel.
15 Rob Neenan, Cory Bullis, and then Tyla
16 Montgomery.
17 MR. NEENAN: Good afternoon. I'm Rob
18 Neenan, president of the California League of Food
19 Processors.
20 Before I say a few things, I wanted to ask a
21 process question. What are the next steps in terms of
22 this rulemaking process if you can describe where we go
23 from here.
24 MR. HOLMES: Yeah, I can do that in case
25 folks are not able to stay for the whole thing, but

1 we'll come back to it at the end of the hearing, but
2 we've received a sizable number of comment letters in
3 the 45-day public comment period that ended on December
4 5th, more comments today and more letters today. So
5 that will likely put us over a hundred letters, comment
6 letters, received. So we will need some time to go
7 through those and determine which of the comments we
8 would like to respond to by changing the text of the
9 regulation if any. We expect that there will be some.
10 So any changes -- any additional changes made to the
11 proposed text will go out for an additional public
12 comment period of a minimum of 15 days per the
13 rulemaking law.
14 MR. NEENAN: This is the one and only
15 workshop on this?
16 MR. HOLMES: This is the one and only public
17 hearing that's required as part of the rulemaking but --
18 and we -- and later, I will solicit some ideas about how
19 we roll out those changes and if there will be other
20 types of workshop-like venues that we -- we're kicking
21 that around at this point.
22 MR. NEENAN: Okay. Thank you for that
23 clarification.
24 Again, I'm Rob Neenan, president of the
25 California League of Food Processors. We filed six

1 pages of comments on this topic, and mercifully, I'm not
2 going to read them. Just briefly, our understanding of
3 the background on this issue was that a few years ago,
4 there were some green waste haulers who had truckloads
5 of residential green waste mixed with trash that was
6 applied to some land in several counties with or without
7 the consent of the landowners. I'm not sure about that,
8 and it clearly was an improper activity that should be
9 addressed and not allowed. But what I'm talking about
10 is -- similar to what Mr. Ruby in Stanislaus County
11 talked about -- is something completely different. I
12 will boil it down to the simplest matter. If a peach
13 grower sends a truck of peaches to a cannery and some of
14 those peaches are bruised, they're too green, there may
15 be leaves mixed in with them, rather than send that
16 material to a landfill, a food processor -- whether it's
17 peaches or tomatoes or whatever. We're mostly talking
18 about fruit, vegetable, and nut products here -- will
19 take that material to a farm. It could be their own
20 farm. It could be one of their growers. It's spread
21 thin and mixed in and used as a replacement for
22 conventional fertilizer. It is an activity that is
23 already regulated, as was mentioned by Stanislaus County
24 at least in passing. If you're land applying
25 significant quantities of agricultural material or food

1 processing fruit and vegetable byproducts or nut
2 byproducts, you may be required by the appropriate
3 Regional Water Board to get, what they call, a Waste
4 Discharge Requirement, a permit, to do that. And within
5 that permit, typically -- we provided a copy of the
6 sample permit to the staff -- it will indicate that you
7 cannot apply the material at a greater than agronomic
8 rate. And if you do, you have got a problem. You
9 cannot creat a public nuisance in terms of odors or
10 insect vectors.
11 So I think one of my comments that I want to
12 emphasize, it's not clear to us that there's a problem
13 that needs to be regulated with existing land
14 application sites and, second, that there isn't already
15 a sufficient regulatory structure in place to deal with
16 it. As, I think, one of the previous speakers
17 mentioned, in addition to the water boards, the air
18 districts have purview over air quality, dust, or odor
19 issues. There's typically local municipal or county
20 ordinances against creating insect vectors or odor
21 problems, and the Food and Drug Administration is in the
22 process of promulgating regulations about the use of
23 these materials for animal feed. So this is already a
24 highly regulated activity, and our sense is that it
25 doesn't need more regulation. And in our comments, in

1 terms of recommendations, is, first of all, is a step
2 back and take a look at whether there really is a
3 problem specifically with land application of food and
4 processing byproducts. We don't believe there is one.
5 Second, because this is an activity that's already
6 regulated, we would suggest that there isn't a need for
7 more regulation. We don't need to have layers of
8 regulation on the same sites when there's no evidence
9 that existing regulations aren't working, and if need
10 be, a more clear definition of the materials we're
11 talking about here. Food processing byproducts, again,
12 we're talking about stem, seeds, leaves, peels, cull
13 fruit, just whatever won't go in the can, box, or bag,
14 what's being land applied. Food processors do not mix
15 packaging material -- glass, metal, biosolids,
16 wastewater, anything. It is just whatever didn't go
17 into the can goes on a truck and is spread out at a
18 farming operation site.
19 And finally, there's also additional agricultural
20 material. I'm not really addressing those today. They
21 would be trimmings from orchards or vineyards, ag
22 manure, and other wastes, and I think there's folks here
23 that are going to talk about those wastes. But for food
24 processing byproducts, the short and simple answer is,
25 we don't think there's a problem, and we don't think

1 there's a problem because it's already being regulated.
2 So we appreciate your attention to our comments, and
3 we'll be glad to answer questions as we go through the
4 process in the next few months.
5 MR. HOLMES: Thank you, Rob.
6 Cory followed by Tyla and Mike Mohajer.
7 MR. BULLIS: Cory Bullis with CleanWorld,
8 which is a local anaerobic digestion company or
9 in-vessel digestion as it's referred to in the
10 regulations. The main highlight we wanted to go over
11 from our written comments submitted last week is that
12 the current definitions of the maximum tonnage for both
13 limited volume and medium volume in-vessel digestion
14 operations are allowed to receive on a weekly basis
15 severely inhibits the flexibility we need in a digester
16 operation. In practice, the amount of waste a digester
17 is feed fluctuates on a weekly basis. Fluctuation can
18 be attributed to several factors, which we go into more
19 detail in our written comments. But in short, we
20 sometimes have to stop feeding the digester for several
21 days, in some cases, perhaps, a week. Normally, if we
22 do not feed for a few days, we're able to catch up by
23 feeding the digester an extra amount of waste in the
24 days or the weeks that follow. However, these
25 definitions prevent our ability to do just that by

1 setting a maximum a digester can be fed on a weekly
2 basis. If our flexibility is restricted, we end up
3 having to turn that waste away to be land filled
4 instead. This doesn't help us, and it doesn't help the
5 State achieve its sustainability goals. We propose that
6 the definitions language be changed to reflect a
7 thirty-day rolling average instead of a one-week average
8 to preserve the flexibility in our operations. Thank
9 you.
10 MR. HOLMES: Thanks, Cory.
11 Tyla Montgomery, Mike Mohajer, and Kathy Lynch.
12 MS. MONTGOMERY: Hello. My name is Tyla
13 Montgomery. I'm a registered civil engineer from San
14 Diego. I'm speaking today on behalf of several
15 organizations that submitted comment letters to
16 CalRecycle. I'm not going to get into detail or speak
17 too much as to what those letters said. Our letters
18 were long and detailed. We're sorry, but you have to
19 read them. And there were -- there was a core group of
20 us from San Diego. The Solano center, Sustainable
21 Solutions, and myself got together, and we developed a
22 template of a letter and we asked our friends and
23 organizations in San Diego and beyond to use our letter
24 template and submit -- and use it as their own
25 essentially. So you're probably going to get a lot of

1 duplications in the letters as well.
2 MR. HOLMES: They listened.
3 MS. MONTGOMERY: Okay. They listened.
4 Okay. That's great to hear.
5 So even before I became involved with composting
6 and with this movement, the San Diego Food System
7 Alliance, they identified composting as a need for
8 agricultural stewardship as opposed to a waste
9 management strategy, and they specifically identified
10 the need to increase collection of food waste from the
11 grocery stores, from the food banks, from the schools
12 and markets and distribute that material directly to the
13 urban and the rural farms for composting for the -- and
14 for the improvement of soil quality. So this is even
15 before I came around. And so what I'm talking about
16 today is not -- it's not land application. It's not
17 composting in the commercial sense, but it's this new
18 idea that hasn't really been discussed in California,
19 and that's expansion of on farm and this idea of
20 community composting. And so we made several
21 recommendations in our letters about -- specifically,
22 for the agricultural -- the language in the agricultural
23 regulations to help promote and expand composting at the
24 farms. We probably didn't get the wording right, so
25 we're flexible, and we want to fine-tune the wording so

1 that it's plain language, it clears up any
2 inconsistencies, and things like that. So we want to
3 work with CalRecycle to clear that up and fine-tune the
4 wording.
5 We also commented on the footprint allowance for
6 small excluded sites. So we thank you for the one
7 hundred cubic yard allowance for the excluded sites.
8 Some of our stakeholders wondered, though, if the five
9 hundred square foot footprint was a typo, and if it
10 should be five thousand square feet, because we did the
11 math, and one hundred cubic yards fits in the square
12 footage of about nine hundred square feet. So if you
13 give allowance for processing the feedstock and for
14 moving equipment and things like that, it made more
15 sense for -- that larger footprint would be more
16 amenable. But we also figured that the footprint is a
17 risk management strategy, and we looked at what the
18 State of Massachusetts does, and they put a burden of
19 proof clause in their regulations that required all
20 sites -- whether they're exempt or permitted, they have
21 to -- they put the burden of proof on the compost
22 producer to follow performance measures. So we would
23 also recommend that you look at that.
24 Let's see. So this idea of on-farm composting.
25 So what the -- the recommendations that we made would

1 essentially do three things to clear up the language and
2 remove ambiguity. It would be, one, allow agricultural
3 sites to compost agricultural material even if it's
4 derived from another agricultural site. We find that
5 the existing language is confusing, whether it has to be
6 derived on site or not. We're told that it does have to
7 be derived from on site, but when we read the specific
8 language, to us, it doesn't say that. So number two, we
9 wanted to differentiate that the only material
10 difference between an ag excluded agricultural site or
11 at a site with an EA notification is whether it uses the
12 compost on site or it sells it -- or they sell it. I
13 hope that makes sense. So whether they use it on site
14 or they sell it, that's what differentiates them from
15 the permit.
16 And then we also want to give agricultural sites
17 an opportunity to import a small allowance. So in
18 addition to their agricultural allowance, which is
19 either the unlimited amount -- a limited volume or the
20 12,500, we want to give them an additional small
21 accessory volume of vegetative or food feedstock
22 material allowance as part of their permit exemption or
23 as part of their EA notification, and it's important
24 that we stress this because the CalRecycle regulations
25 are precedence setting especially in our local

1 jurisdictions. They look at the CalRecycle regs, and
2 they nearly copy it, the definitions and their land use
3 rules. And then they also -- our local LEAs, of course,
4 that sets the permit fees. So in San Diego, an EA
5 notification is $660, but a registration permit is
6 $8,000 a year. And so a farm who's only seeking an
7 incidental volume of material on site -- it's not right
8 that they would have to enroll and register a permit and
9 pay that $8,000 a year. And so this structure is what
10 currently, and will effectively, continue to exclude
11 agricultural driven composting.
12 We wanted to clarify -- moving on, we made a
13 third point that we wanted to clarify permitting of
14 in-vessel facilities. We'd like a better distinction in
15 the rules that distinguishes aerobic in-vessel digesters
16 versus anaerobic digesters because in-vessel aerobic
17 digesters are compost -- they produce compost as the end
18 product. And the rules, we find that the handing of
19 digestate doesn't distinguish compost versus, maybe, an
20 immature digestate coming out the back end of a -- of a
21 digester.
22 And then finally, we would ask CalRecycle --
23 maybe this isn't necessarily for the rulemaking, but we
24 ask CalRecycle to work with LEAs, to work with land use
25 administrators, and our local governments to develop a

framework for some sort of low cost or training program, guidance programs, because composting is going mainstream, and it's going mainstream at the community scale all the way up to the commercial scale. People want to be involved, and there is fear surrounding composting. And, of course, we don't want mismanagement -- mismanaged activity. So we want programs in place, trickle down programs, in place that make sure that all operators of all sizes and scales have the necessary trainings in place and they have the basic knowledge. Maybe for the smaller sites that means we develop a more robust master composter type program, something like that, something to handle the larger sites. That's the next step up beyond the backyard composting -- that the master composter training provides. So that's what we would ask, too.

And then -- I think that's it. On behalf of all the stakeholders who submitted comments, thank you.

MR. HOLMES: Thank you, Tyla.

Maybe repeat -- again, if you wish to make testimony, there are speakers slips on the back table, or raise your hand, and then Cody or Martin will hand you one.

Next up is Mike Mohajer followed by Kathy Lynch and then John Dane.

1 MR. MOHAJER: Thanks, Bob. My name is Mike
2 Mohajer, and I'm with the Los Angeles County task force.
3 Just for some of you that don't know, this organization
4 represents 88 cities and the county incorporated
5 communities in Los Angeles County covering a population
6 of approximately -- a little bit over ten million
7 people.
8 So our perspective -- is what I'm going to be
9 presenting -- is somewhat different from perspective of
10 a composter or a facility operator. We're looking at
11 the local government that is confronted with having five
12 million tons of organic that, under the AB 1826, we got
13 to find a home for it from the landfill by the year
14 2020, which signifies development of significant number
15 of composting facility or anaerobic digestion, whatever
16 it calls, in an area that is highly urbanized. And, and
17 it makes it very difficult to site this type of a
18 facility, and so the issues that I'm going to be
19 discussing, please recognize, that's where I'm coming
20 from.
21 So we have reviewed the proposal, submitted the
22 comments to CalRecycle before. A few things that are
23 important, I just want to mention for the information of
24 everyone, we really believe that we have to look at
25 the -- an integrated waste management system overall.

1 It's not going to be composting. It's not going to be
2 land filling. It's not going to be in segregation.
3 It's going to be an integrated waste management system,
4 and we have to treat all technologies equally. So I
5 cannot favor composting against land filling or waste
6 management or some other process. All technologies must
7 be handled through this regulation equally so it would
8 have a fair, level playing field. That is very
9 critical. Otherwise, you're not going to get any
10 composting facility, at least in southern California,
11 which all -- whole area has about 17 million population.
12 Secondly, for a number of years, the -- LA County
13 has been very specific asking CalRecycle and also the
14 former Californian Waste Management Board to define as
15 far as the terminology of what it means by organic
16 waste, compostable waste, non-compostable waste, plastic
17 materials, and, and this including -- I have sat down
18 with Bob and discussed it. It's been going on for many
19 years going back to the year 2008. And here we are in
20 2014, and we are still asking for the definitions, and
21 it's really critical you define what -- do you mean.
22 And this is another foundation of the proposed
23 regulation that needs to be developed.
24 The third question is that some of the problems
25 that I face myself, being involved for 42 years in the

1 solid waste industry, running the county, Los Angeles,
2 programs for all these years, that any time you site a
3 solid waste facility, there is always the CEQA
4 documents, and you have the lead agency and you have
5 also responsible agency that use the CEQA document to
6 issue a permit. In many cases, the CalRecycle uses the
7 EIR or the -- that is prepared by another -- by the lead
8 agency and they adopt the document as responsible
9 agency. In many cases, these documents, they have a
10 number of mitigating measures that the responsible
11 agency, such as CalRecycle, must implement. This is
12 beyond what the State minimum standards are for solid
13 waste handling, and we respectfully request that
14 whenever you adopt a solid waste permit and use the CEQA
15 as a responsible agency, then identify those mitigating
16 measures into your solid waste permit so the local
17 enforcement agencies knows that they have to enforce
18 those, and there have been a number of cases that I have
19 raised the issue. The last one being that you know
20 and -- has been the Sunshine County Landfill for example
21 that I have raised the issue with and we have over 1200
22 complaints.
23 The next issue is in reference to the mix
24 materials. Mixed material, for example, in section
25 1785 -- 852 subsection A26 defines it, refers to

1 nonorganic and plastic. As previously indicated, these
2 terms, again, needs to be defined. The most important
3 part becomes, again, the issue of odor and the nuisance
4 that needs to be addressed. Currently, section 17852
5 subsection A reads, "Nuisance," based on the proposed,
6 "a nuisance may be anything that is injurious to human
7 health and affects at the same time an entire
8 community," and emphasis added. We have asked many
9 times through the development of this regulation, what
10 does it mean "to the entire community"? So if I live
11 next to the CalRecycle over here and I smell some odor,
12 should the boundary -- goes all the way to the Capitol
13 building or is it going to be a hundred feet? So you
14 have got to define the "entire community." This is --
15 you can drive a train through this definition. And at
16 the same time, if you are a citizen and raising the
17 issue about the nuisance, then the residents -- also,
18 that single resident, also has to substantiate that a
19 nuisance impacted the entire community, which is, for
20 all practicable purposes, impossible for a person or a
21 family to substantiate that. And you can pick up a good
22 example of it. Bob, Ken, over here, you guys can go to
23 LA. Visit the Sunshine Canyon and try to substantiate
24 what you have put over here. So you're out in the
25 field, out in the trenches. Define it. So this is --

1 this issue of the nuisance must be addressed and the way
2 you have it, even though it is in existing regulations,
3 it has to be modified, and I have submitted several
4 recommendation, which unfortunately, it has gone by the
5 wayside.
6 One other simple thing is that -- that is, also,
7 it is for local government -- is important because we
8 do -- for many years, I start -- I have AB 939 was -- I
9 mean, I talked about the bean count. So when some of
10 our organic material goes to San Joaquin Valley, which
11 is quite a development, then we would like to know
12 wherever it goes. So -- would have the operator of a
13 facility identify the origin of that materials and the
14 quantity by the jurisdiction of origin. So when
15 CalRecycle comes and looks at, well, City of, let's say,
16 San Dimas, "Have you done anything substantive?" "Yeah,
17 we generated this much green waste, and now the green
18 waste goes to such a facility in Bakersfield," and -- at
19 Crown Ecology or whatever the name of the facility is.
20 So that is another issue that needs to be addressed.
21 And then there are whole bunch of other
22 requirements that I'm not going to take any time to go
23 over it, but our comments, again, are from the
24 prospective of local government in a highly urbanized
25 area trying to achieve 1826, which was put together in

order to reduce greenhouse gas emissions that ultimately we're going to be ending up, most likely, if we can't develop a facility in southern California, then we have to ship it up to other part of the state which have to -- going to be using fossil fuel and the whole idea of greenhouse gas reduction goes by the wayside. So I'm looking forward to see -- after you guys get a chance to review the comments -- to see what kind of responses we get.

Thank you very much, and by the way, for the record, I have worked with Ken and Bob at least during the past three years and working in this composting regulation, and I really do want to express both the task force and myself, appreciation that they have -- they have done the best they can considering that you get point of view from seven thousand different direction, and no matter what you do, you're wrong. Thank you very much.

MR. HOLMES: Thanks, Mike.

Kathy, I'm sorry. I know you have been waiting there. Let me just check in with our online participants on the broadcast.

If you are listening to the broadcast and you wish to submit comments to us, you can use the dedicated email inbox, compost.transfer.regs, R-E-G-S,

1 @calrecycle.ca.gov. We will not be reading those
2 comments into the record during the hearing today, but
3 they will be treated just like any other comments
4 submitted to us, and the Department will respond.
5 Thanks.
6 Okay. Kathy Lynch followed by John Dane and then
7 Kevin Abernathy. And then we only have two more after
8 that, Veronica Pardo and Nick Lapis, and so if you do
9 wish to provide testimony today, please fill out a
10 speaker slip and get it to us here. Thank you.
11 MS. LYNCH: All right. Pressure's on. I'm
12 Kathy Lynch, and I represent, today, the Association of
13 Compost Producers, ACP. For those of you that don't
14 know who they are, they are a nonprofit association that
15 represents the bulk of composters in the state, and
16 they're also the state chapter for the US Composting
17 Council, and I would like to say in the beginning here
18 that we have appreciated very much the work that we have
19 done with Mr. De Bie and Mr. Holmes and Ken Decio over
20 the last couple of years on this. This has been a
21 daunting task, and we do generally support movement
22 forward on a formal rulemaking in this area. We think
23 it's very necessary and timely with the 75 percent goal
24 as well as with the passage of the legislation. It's
25 clearly a very important policy objective. We did file

1 comments, about five pages of comments, with some
2 specific recommendations, and today, I would really just
3 like to focus on just one open issue. I won't say it's
4 even an issue of contention. It's just an open issue
5 that we hope can reach resolution with a consensus of
6 the stakeholders. I would like to buffer that by
7 indicating that the economic analysis, we appreciate the
8 challenges that you all have had with that. It's a
9 little bit of a cart-and-horse problem, but we don't
10 believe that the economic analysis that was complemented
11 as part of the ISOR, the Initial Statement of Reason, in
12 appendix B1 doesn't dig deep enough into the economic
13 impacts of the proposed rule and the impact on the
14 composting industry, and if we were just to take the
15 high end number that you have proposed here, the 53
16 million per year, that represents really a pretty severe
17 impact on the compost industry that really couldn't be
18 absorbed in the market and could really be
19 counterproductive to the goals that you have set.
20 The primary issue that I wanted to focus on
21 today, and I know it comes as no surprise to you folks,
22 is the physical contamination limit that you have set of
23 0.1, and we don't think the economic analysis backs up
24 that number. We believe that number is an impossible
25 number to reach at this time. We're very committed to

1 working with you on a physical contamination limit
2 that's obtainable and supports the public health and
3 safety. We do know that the 0.5 is, sort of, the
4 existing detection limit for most compost labs. We have
5 checked around and talked to them. At the national
6 level, we're working with a 0.5 detection limit. We
7 believe that the cost -- it would be cost prohibitive to
8 have a 0.1 on the front end, and screening on the back
9 down to the four millimeters to achieve the 0.1 would
10 eliminate too much of the valuable compost overs. If
11 the size limits were imposed on all the compost
12 produced, these trashy overs would end up in the
13 landfill and be counterproductive to your 75 percent
14 goal. We know that Caltrans has adopted a 0.5 threshold
15 for landscape application. We understand that went into
16 effect earlier this year, but again, we're not clear
17 about the actual market application of that at this
18 time, and we think we need a little more experience with
19 that to get a better handle on that. What we'd
20 recommend in this area is that we'd really like to see a
21 working group comprised of representatives, obviously,
22 of the compost and the waste management industry and
23 experts in academic areas and the scientific community,
24 the regulatory community, it's been mentioned here today
25 that CDFA and the Water Board. We believe that all the

1 regulators that have jurisdiction here need to be
2 brought together so that we can come out with some
3 consistency and clearly -- customer basis. The
4 agricultural community, environmental community, we
5 believe we all need to sit together and try to come up
6 with some kind of a determination on the physical
7 contamination level. We would hope that the industry
8 along with the regulators could move forward to look at
9 some more testing limits and maybe get some cap and
10 trade funding to develop this further but while the
11 industry is -- has different opinions about what that
12 contamination number would be, I think it's fair to say
13 that everyone in my industry believes that the 0.1 is
14 not obtainable and that a 1 percent threshold or even no
15 number until such time as we can develop the criteria
16 and the protocols around it would make more sense.
17 And we have several other comments, but I won't
18 belabor them today, and again, I really do want to close
19 by thanking CalRecycle for their work in this area. We
20 think it's very important and critical, and we are ready
21 to work with you to resolve remaining issues, and there
22 are many items in your package that I know have been out
23 there for some time that we're very supportive, of and
24 we think that you have done a great job with this, kind
25 of, moving target, so thank you.

1 MR. HOLMES: Thanks, Kathy.
2 John, Kevin, Veronica, and Nick.
3 MR. DANE: So good afternoon. My name is
4 John Dane. I'm the executive director of the California
5 Resource Recovery Association. We are supportive of
6 your efforts to revise the regulations in this area.
7 Our comments are actually very short today. We are here
8 to endorse the comments submitted by our technical
9 council, the California Organic Recycling Council. They
10 had several pages of good, detailed comments, and I
11 might add, however, that we particularly call attention
12 to the problematic .1 physical contamination limit. We
13 certainly support our technical council's preference
14 that market forces define the level of physical
15 contamination in the finished compost. Those comments
16 are in the core letters, and as the, the umbrella body,
17 we certainly support those. Thank you.
18 MR. HOLMES: Thanks, John.
19 Does anybody else need a speaker slip? Raise
20 your hand. Okay.
21 Kevin.
22 MR. ABERNATHY: Thank you, Robert. My name
23 is Kevin Abernathy. I'm the director of regulatory
24 affairs for Milk Producers Council and also a board
25 member of Dairy Cares. We'd like to thank CalRecycle

1 for having a comment period both in writing and in
2 person today. It's been interesting coming from the
3 dairy perspective in listening to a lot of our friends
4 and colleagues that are so intricately integrated into
5 California's family dairy farms. When it comes to
6 looking at -- a lot of people use the term "waste,"
7 which just enthralls me up one side and down the other.
8 We make and divert a lot of food that -- into a very
9 beneficial use on the dairy farms. It goes in the north
10 end and comes out the south end, again, not as a waste
11 but simply as nutrients in transition. And in working
12 in the Krebs cycle of life on a dairy farm, we're
13 always, basically, reusing back into the front end,
14 comes out the south end, out to the cops, grows the
15 crops that actually come back into the north end. So
16 there's really not a part of our operations that are not
17 recycling something that has a beneficial use at every
18 step through the process from beginning to end.
19 And I -- again, I would like to maybe highlight a
20 couple points. The California dairy industry has came
21 under severe regulation over the past decade, and even
22 the discussion on the digesters, I mean, we basically
23 try to cut, you know, a few thousand feet off Mt.
24 Everest to have the ability to co-digest with, with
25 digesters on facility, and what Pamela Creedon and the

1 Secretary of Ag have done to create an expedited process
2 to allow that to happen -- again, we have unintended
3 consequences. When I look at the San Joaquin Valley air
4 pollution control district in our rule 4550 and 4570 and
5 4702 and rule 8801 and the list goes on. And as we
6 become a more mature regulated industry -- and then we
7 had, in April of 2007, the general order come out, which
8 regulates all of our nutrients in transition -- I'm not
9 using the word -- with that, we have noticed a lot of
10 unintended consequences of one regulatory body that has
11 a very prescribed job to do and another regulatory
12 agency that has another very prescribed job to do
13 whether it's the Clean Water Act or Clean Air Act.
14 There's a lot of interferences between those, and to
15 potentially add another layer of regulatory burden on
16 the CAFOs, Confine Animal Feeding Operations, or AFO,
17 Animal Feeding Operation, whether it be dairy or
18 livestock in general, poultry, you -- anything that
19 basically is a mammal that, that has some sort of a
20 biological function -- doesn't make much sense at all
21 from that standpoint. So I'd just like to quickly
22 reiterate what we have read so far is extremely complex,
23 and the potential for unintended consequences in
24 conflict with other regulatory prescriptions that we're
25 currently under is extremely great.

1 Due to the complexity, as we stated in our
2 comments noted on the 5th, it really, really just -- and
3 I believe it was said today by another speaker -- at
4 minimum, another 45 days to really take a look at the
5 science to make sure that we're able to get out any of
6 those potential unintended consequences.
7 As currently proposed, this regulation casts a
8 very, very wide net, which we think, in most cases, is a
9 net that doesn't need to be thrown to begin with. If
10 you go to Rob's comment where this may be a very
11 isolated incident where things were put on someone's
12 property, whether it was or was not to their knowledge,
13 of course, that needs to be dealt with. But it
14 certainly doesn't need to be dealt with by creating a
15 whole another level of regulatory compliance for
16 business and industry in -- actually a very
17 over-regulated State of California. We -- basically, in
18 the dairy industry, as I have stated, we're regulated
19 from cradle to grave. We are the most regulated
20 segregated animal industry in the world, period, end of
21 story. And I go back to the general order. Every dairy
22 farm has a nutrient management plan that is overseen by
23 a licensed agronomist, TSP, or crop advisor. We have
24 waste management plans that were developed by registered
25 California civil engineers. All of these things are

1 ongoing. We sample our soil. We sample our water. We
2 sample all of our nutrients that we apply to the crops.
3 All of that has to be in an agronomic balance not to
4 exceed a set number in the general order, and quite
5 frankly, both the air program and the water program are
6 consistently monitored and reports are filed to those
7 regulatory agencies on an annual basis, if not, more
8 frequently.
9 So I have mentioned the nutrient management plan.
10 I have mentioned the waste management plan, also the
11 environmental sampling and monitoring of soil, manure,
12 and water and plant issues for compliance. That's
13 also -- there's a whole other aspect, which is part of
14 our Central Valley regional monitoring program that
15 actually takes a look at the effectiveness of our
16 management practices through a monitoring system, which
17 was nonexistence in the State of California almost three
18 years ago, which actually looks at the effects of our
19 practices on the soil surface when it comes to first
20 encounter groundwater.
21 So with that, materials that are handled by
22 dairies, such as feed and manure, are strictly
23 regulated, and quite frankly, we love harvest time in
24 the Central Valley because a lot of those feedstocks
25 that we feed for shorter periods of time become a very

1 critical part of our total mixed rations that really
2 allow California farmers to be at a competitive
3 advantage over other states in the nation that are under
4 a different pricing mechanism, which typically far out
5 -- far exceeds our state set price here in California.
6 So, again, it's a huge competitive advantage, and we
7 love our food processing folks for that simple reason.
8 Finally, you know, dairies should be excluded
9 from this type of regulation due to the fact that with a
10 little bit of intel, you'll find that what you're trying
11 to get at has already been done. And with that, thank
12 you.
13 MR. HOLMES: Thanks, Kevin.
14 Okay. So I have three slips left up here.
15 Veronica, Nick, and Chuck Helget.
16 MS. VERONICA: Thank you. I'm here on
17 behalf of the California Refuse Recycling Council, a
18 trade association of haulers, processors, recyclers, and
19 composters throughout California, and we generally
20 support and absolutely commend the work that you have
21 done on the revision of Title 14 and 27 as it pertains
22 to compostable material, transferring and processing.
23 However, we do have some issues of concern, and we have
24 submitted comments to that effect. I'd like to
25 reiterate some points today as Kathy Lynch spoke to in

1 representing ACP. We consider the current .01 to be
2 unattainable not only from a cost perspective as
3 economic and fact report estimates a cost scenario of
4 $50 million but also from a lab testing perspective and
5 that was spoken to today. It's our understanding that
6 labs currently test to a .5 percent contamination level
7 by dry weight. We are in support of an industry
8 achievable contamination level as well as a standardized
9 and repeatable lab protocol included in your
10 regulations.
11 Additionally, we highly recommend, as other
12 stakeholders, the formation of an industry committee or
13 working group comprised of composters, waste management
14 industry, as well as food and ag representatives, water
15 board, and other affected stakeholders to tackle the
16 salient issues that have been brought up today and in
17 the letter.
18 Finally, these regs really are crucial to reach
19 the 75 percent diversion goals of the state, and as
20 they're written in their current form, specifically
21 around the contamination levels, we believe that it
22 would thwart the goals of the state in reaching those
23 goals, the diversion rate goals. So thank you very much
24 for your time today.
25 MR. HOLMES: Thank you, Veronica.

1 Go for it, Nick.
2 MR. LAPIS: Good afternoon. Nick Lapis with
3 Californians Against Waste. I wasn't going to come up
4 and testify because I know you have heard, heard me loud
5 and clear on a lot of different issues, and we have had
6 probably a dozen to two dozen workshops so far on this
7 reg package. We have gone over every single issue in
8 detail, but there were some comments made earlier that I
9 wanted to respond to in a way.
10 I think that there's some level of
11 misunderstanding that's happening between the folks in
12 the ag community and those of us who have been involved
13 in this reg package for the last three years. Either
14 there's a level of misunderstanding in terms of what the
15 regs do, or we're missing some unintended consequences
16 that maybe we didn't envision and maybe we're the ones
17 who are misunderstanding what exactly these regs do and
18 the impacts, and there's a conversation that needs to
19 happen there. I don't think we're actually very far
20 apart based on my conversation with several folks. The
21 regs are really not intended to require the composting
22 of food processing material. And, you know, as far as
23 dairy, I think, if anything, this is more -- probably
24 allowing more than it should in terms of food waste.
25 But, again, this isn't intended to regulate dairies per

1 se. It's intended to regulate dairies that accept food
2 waste and not food processing material necessarily but
3 residential material.
4 But really, the reason I wanted to come up here
5 is as we discuss this, I want to make sure we don't lose
6 sight of the concern we have all had with direct land
7 application of residential green material, which is a
8 different animal from food processing waste or dairy
9 manure or anything else, and that's where we have this
10 very quick increase in the practice and where we have a
11 very substantial concern, and it's not a one-off
12 situation. It's a pretty common situation. So as we
13 mess around the edges on the ag side of things, let's
14 make sure we don't lose sight of the issue that's
15 brought before us.
16 As long as I do have the microphone, I did want
17 to mention a few other things. The one that I mentioned
18 in my comments, and you know I'm going to say, the .1
19 doesn't work. You knew I was going to say that. There
20 is a compromise there, I think, somewhere, you know, in
21 the range of .5 to .75 with a standard that's an equal
22 playing field for land application and composting in
23 terms of the finished product after the decomposition
24 process also potentially different standards for
25 different inert materials. For example, glass might not

1 be subject to the same standards as plastic. It doesn't
2 have the same concerns.
3 And then two more things, just because I did
4 mention them in my comments. To Cory Bullis's point
5 from CleanWorld, I think he's right. It does seem to
6 make sense to have a thirty-day rolling average for
7 material. As much as I think about it, I can't really
8 think of a downside, and there are definitely situations
9 I can image where it would be hard for registrations to
10 your digester to meet if they do have to, say, shutdown,
11 you know, for maintenance for a couple days for
12 something along those lines. And on the economic
13 analysis, I do actually agree with Kathy and with Neil
14 Edgar's comments. I mean -- and I -- the reason I
15 didn't include anything in my written comments is
16 because I don't want you to have to go back and rewrite
17 the economic analysis. We have been doing this for
18 three years. I don't necessarily want to be talking
19 about it for another two. But you can't -- as to your
20 economic analysis -- start off with the assumption that
21 the same amount of composting will happen no matter what
22 cost you apply to it and then assume that the same
23 amount of composting happens but now there will be more
24 screeners; we have created jobs. If that was the case,
25 none of us would be worried about the impacts to the

1 composting industry. It's the fact that we're worried
2 that there will be less composting that is really at the
3 heart of the issue. Okay. Thank you.
4 MR. HOLMES: Thanks, Nick.
5 Chuck Helget.
6 Anyone else wishing to provide testimony, please
7 fill out a speaker slip and bring it up here. Chuck is
8 the last one we have.
9 MR. HELGET: Yahoo. Chuck Helget
10 representing Republic Services and for the sake brevity,
11 just a couple -- two quick points of emphasis. We have
12 submitted written comments. I want to speak in support
13 of Kathy Lynch's concerns about the contamination
14 threshold. The .1 percent is simply unenforceable and
15 economically unfeasible, and we would suggest at least a
16 .5 percent threshold. And on the application frequency
17 and depth of the application, the 12 and 12 threshold,
18 we do think that -- and this is what, I think, was
19 addressed in waste management's letter in more detail.
20 They're suggesting a deletion of that. I'm not sure
21 that I -- at this point, I have to think it through and
22 support that, but I do think there has to be some
23 flexibility to allow for, I guess, what the term would
24 be, locally appropriate, agronomically approved regs.
25 So that's it. Thanks.

1 MR. HOLMES: Thanks, Chuck.
2 Okay. Going once. Going twice. Any other
3 participants wishing to make testimony today?
4 If not, I will go into the next -- okay.
5 MR. EDGAR: Neil Edgar on behalf of the
6 California Compost Coalition, and I will be brief. Bob,
7 Ken, and Mark have heard plenty from me over the last
8 three years at every one of those workshops. In
9 particular, We have raised two concerns, one, the
10 physical contaminate limit, which we belive is
11 untenable. We presented an alternative plan, where
12 clean green material and tip and grind material could
13 adhere likely to a 0.1 percent standard. Those
14 materials are required to have a 1 percent contamination
15 limit going in and don't require an excessive amount of
16 processing in order to meet that. At -- current levels
17 don't appear to be achieving that, but I think there's
18 certainly the likelihood that additional processing
19 could get us to that level.
20 We also have proposed that testing labs be
21 required to utilize the US Composting Council's seal
22 testing assurance program, the TMECC methods. That will
23 provide apples to apples comparison of contaminate
24 levels, and then those labs can report back to
25 CalRecycle over the next several years where the median

1 range and matrix are on the actual contaminate levels or
2 they're present at composting facility. We don't
3 believe that mix material composting, food material
4 composting can meet any 0.1 percent standard. We
5 proposed a 0.5 percent standard and, granted, both of
6 these standards would be phased in over a five-year
7 period to allow the industry to adjust, our estimates
8 are that the economic impact ranges somewhere in the 13
9 to 15 percent of the total market value of all compost
10 and mulch products that are produced right now. That
11 kind of market increase is not tenable.
12 While composters are being successful in
13 marketing their products now -- partially, is a function
14 of the good weather that we have had over the last
15 couple of years -- there is no certainty that the
16 agricultural industry, where the most market is growing,
17 are going to be able to accept additional costing
18 increases. It's not like gasoline, where no matter what
19 the market price is -- right now it's 2.85. If it goes
20 up to 4.30, where it was a couple years ago -- we'll
21 just keep buying it. Compost is not something you have
22 to buy and apply every year, and ag markets that have
23 been diligently developed over the last couple of
24 decades, very price sensitive, and in down years,
25 agricultural operators have not purchased compost, and

there have been backlogs of facilities. Couple of years ago, the weather was -- we had early rains in December, and the application period for winter was just totally dissolved, and most of the composters we know were backed up with material that put them over storage limits on their sites and into compliance problems with their LEAs.

Another issue is land application, and we're happy to hear that there's so many responsible food processors out there land applying material that's clean and Mr. Neenan is probably correct that this stems from a few bad operators applying some dirty material from curbside collected green program, but I think nobody has really estimated what the scope of that is. We believe that several orders of magnitude of materials are being shipped every day, tens of millions of tons a year, directly from curbside programs into land application across the state. I haven't seen anybody quantifying that. We don't know where the study is at to justify not implementing some standard -- certainly, is the largest impediment to the growth of the composting industry in California. And while everybody has been pointing at green waste alternative to cover as a significant impact -- and AB 1594 will -- you know, is targeted to reduce that practice by 2020 -- land

application is significantly higher than the one and a half million tons of green waste being used today.

I think last thing I'll hit on is that the dairy digester programs that Nick alluded to and that our friends in the dairy industry have talked about -- I don't know that CalRecycle has any need, want, or desire to be regulating those facilities, but I think where they get into programs where they're accepting food waste from commercial collection programs, residential collection programs that do fall under solid waste regulations, and those facilities need to be adhering to the same standards as other industries in the state, and I'll leave it at that. Thanks.

MR. HOLMES: Thanks, Neil.

Okay. One more time. Last call. Any other participants wishing to provide testimony this afternoon?

Okay. Very good. So then I will go and recap next steps once again. So I touched on it earlier, a little earlier. So we did receive a sizeable number of comment letters during the 45-day comment period. We received one more today, and any testimony made today is also subject to our review and consideration as to whether or not we feel the need to change the reg text to respond to those comments. If we do change the text,

1 then it will be -- provided -- distributed again for an
2 additional public comment period, minimum of 15 days is
3 what the law requires. We expect that there be will
4 some changes. It's going to take us a while to get
5 through the comment letters. We won't know how long
6 until we, kind of, get into them, but as you hear today,
7 there are some that are, you know, not one- or two-page
8 letter but multiple page letters. So it will take us
9 some time.
10 The best way for you to stay in touch with what
11 we're doing is to sign up for our list serve. That
12 information is available on the proposed rulemaking web
13 page or give one of us a call or email, and we'll show
14 you how to get there. Anyone who testified today will
15 automatically be noticed about any new reg changes.
16 I did want to -- we did want to get your feedback
17 today, for those in the room, about if we do make
18 changes, how we may best roll those out. So by a show
19 of hands, can I see who would be interested in a
20 workshop-like venue where staff could present the key
21 changes and walk those -- walk through with you and be
22 available to answer questions?
23 Okay. A sizeable number. Any other ideas about
24 how that would best be rolled out?
25 Okay. All right. So best I can tell you now is

stay tuned, sign up for the list serve and/or monitor the web page for additional developments, and that concludes the public hearing for this afternoon. Thank you all very much for making the trip to Sacramento.

(Whereupon the proceedings concluded at 2:53 p.m.)

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I, Brittany Flores, a Certified Shorthand Reporter of the State of California, duly authorized to administer oaths, do hereby certify:

That the foregoing proceedings were taken before me at the time and place herein set forth; that any witnesses in the foregoing proceedings, prior to testifying, were duly swore; that a record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; that the foregoing transcript is a true record of the testimony given.

Further, that if the foregoing pertains to the original transcript of a deposition in a Federal Case, before completion of the proceedings, review of the transcript ( ) was ( ) was not requested.

I further certify I am neither financially interested in the action nor a relative or employee of any attorney of party to this action.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated:

_____

Brittany Flores CSR 13460