

TITLE 3. FOOD AND AGRICULTURE

NOTICE OF A REQUESTED HEARING

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture (Department) has proposed changes to various sections of Subchapter 2 (commencing with section 1180) of Chapter 4, Division 2, of Title 3 of the California Code of Regulations. The proposal was published in the *California Regulatory Notice Register* on June 4, 2010 [Register 2010, No. 23-Z] but no hearing was scheduled. The Department has received several requests for public hearings; therefore, the hearings will be held in accordance with Government Code section 11346.8 for the following:

Proposal relating to the regulation of rendering establishments, collection centers, dead animal haulers, and transporters of inedible kitchen grease.

Food and Agricultural Code section 407 authorizes the Department to adopt such regulations that are reasonably necessary to carry out the provisions of the Food and Agricultural Code which it is authorized to administer or enforce. Chapter 5 (commencing with section 19200), of Part 3, Division 9, of the Food and Agricultural Code, authorizes the Department to regulate, in part, the rendering industry, which includes, collection centers, dead animal haulers, and transporters of inedible kitchen grease. Rendering establishments and collection centers are exempt from inspection by the United States Department of Agriculture but require inspection in California. Dead animal haulers and transporters of inedible kitchen grease are required to be registered with the Department.

This proposal makes various changes to the regulation of rendering establishments, collection centers, dead animal haulers, and transporters of inedible kitchen grease under Subchapter 2 (commencing with section 1180) of Chapter 4, Division 2, of Title 3 of the California Code of Regulations. This proposal also incorporates by reference specified forms utilized by the Meat and Poultry Inspection Branch of the Department for use by the rendering industry and incorporates by reference specified standards from the 2007 California Building Code.

Hearing Dates, Times, Locations

October 18, 2010
9:00 a.m. – 4:00 p.m.
Department of Food and Agriculture
1220 N Street, 1st Floor Auditorium
Sacramento, CA 95814

October 21, 2010
9:00 a.m. – 4:00 p.m.
Junipero Serra State Office Building
320 West 4th Street, Carmel Auditorium
Los Angeles, CA 90013

Public Comments

Comments shall be presented at the hearings on October 18, 2010 or October 21, 2010, between 9:00 a.m. and 4:00 p.m. Any person who submitted a written comment during the 45-day public comment period, which ended July 19, 2010, remains in the Department's official rulemaking file.

Contact Persons

Inquiries concerning the substance of the proposed regulations are to be addressed to: Douglas Hepper, DVM, Branch Chief, Department of Food and Agriculture, Meat and Poultry Inspection Branch, 1220 N Street, Room A-125, Sacramento, CA 95814, Telephone (916) 654-0504.

The backup contact person is: Nancy Grillo, Regulation/Legislation Coordinator, Department of Food and Agriculture, Animal Health and Food Safety Services, 1220 N Street, Room A-114, Sacramento, CA 95814, Telephone (916) 651-7280.

Website Access

Materials regarding this proposal can be found at <http://www.cdffa.ca.gov/ahfss/regulations.html>

Working Document Exemption from Registration & Licensing

Goal:

Draft a regulatory scheme that:

- Will not require registration of collection vehicles or licensing of permitted facilities (especially green waste composting facilities):
 - if the collection vehicle only services retail establishments;
 - if the collection vehicles hauls to permitted facility;
 - If the collection vehicle only carries parts or products of animals due to disposal incidental to cleaning or sanitation or accidental disposal.
- Allows for reasonable enforcement.

Definitions:

Accidental means disposal that occurs unexpectedly, unintentionally, or by chance.

Describes what's meant by accidental.

Animal means a mammal, a fowl, a fish, a crustacean, a mollusk, or any other animal used as a source of food and/or fiber.

The current regulation uses the term: "parts and products of animals" but doesn't define "animal."

Incidental to Cleaning or Sanitation means unavoidable disposal in minor amounts while cleaning and/or sanitizing equipment, containers, cutting boards, surfaces, floors, tables, or utensils.

The intent here is to capture everything that could be "cleaned" so it's clear to CDFA.

Inedible means that a part or product of an animal is not intended for and cannot be reconditioned for use as human food or has been condemned.

Whether the part or product of animals was produced for human consumption the disposal is occurring because its current condition makes it inedible.

Solid waste collection vehicle or collection vehicle means a vehicle used for purpose of collecting solid waste for a fee or otherwise from inspected establishments, retail stores, custom slaughterers and custom processors.

Adapted from CARB definition.

Uncooked means not cooked for human consumption.

If it's cooked, then it shouldn't be regulated. Addresses plate waste. Could add definition of plate waste to make it clear.

Uncooked Inedible Parts or Products of Animals at Retail Stores means meat trim, meat scraps, fat and bone that are the result of preparing parts or products of animals for sale or parts or products of animals that are past their sell-by or use-by dates.

Establishes that this is focused on parts and products of animals at retail stores, not inspected establishments, custom slaughterers or custom processors – that should be held to higher standard. Describes exactly what kind parts and products of animals

we're talking about – those produced by prepping meat and products that are past their expiration dates and that they are uncooked.

Disposal

[1180.48(a). Adapted from proposed regulation]

1180.48(a). Any uncooked inedible parts or products of animals disposed of by inspected establishments, retail stores, custom slaughterers and custom processors shall be disposed of through licensed renderers, licensed pet food processors, licensed collection centers or other methods or destinations authorized by law and approved by the Department.

[Says “uncooked” infers that “cooked” not regulated]

Except as follows:

1. The disposal is accidental or incidental to cleaning and or sanitation; and,

[Provides for allowed disposal if it's incident to cleaning or sanitation or accidental]

2. The type of material being disposed is Uncooked Inedible Parts or Products of Animals at Retail Stores; and,

[Describes the type of material and that it's uncooked from a retail store. The same material that's cooked is not regulated. We could add a section that specifically says that if this isn't strong enough though.]

3. The solid waste from the retail store is being transported to and handled and disposed of in a properly permitted solid waste facility; and,

[Since this will be available to all collection vehicles, want to make sure that this only applies to solid waste that's being hauled to an appropriately permitted solid waste facility; is that the right term of art for a composting facility?]

4. The retail store regularly provides information regarding the proper disposal of animal parts and products of animals to store employees in their normal worker health and safety education and training programs.

[Educational component required – for employees in a type of training that actually happens. Could be described differently.]

Registration of Transporters

[1180.50(a). Adapted from proposed regulation]

1180.50(a). Transporters of uncooked inedible parts or products of animals shall register with the Department by completing and submitting MPI Form 79-015A (Rev. 08/08), Registration of Transporters of Inedible Materials, and shall provide in writing the following information: the origin and destination and the make, year, and license plate number of each vehicle used to transport inedible or condemned material.

Except as follows:

1. The collection vehicle does not service inspected establishments, custom slaughterers or custom processors; and,

[Establishes that exemption to registration doesn't apply to vehicles that services places that are not likely producing "green waste" that's going to composting but likely are producing quantities of regulated product. Could develop a scheme if those places are important to green waste composting.]

2. The collection vehicle does not transport Uncooked Inedible Parts or Products of Animals at Retail Stores unless it was caused by disposal incidental to cleaning or sanitation or by accidental disposal; and,

[It's ok to transport parts or products of animals if they got there incidental to cleaning or sanitation or by accident.]

3. The collection vehicle transports to facilities that are properly permitted to handle and dispose of the solid waste; and,

[It's being transported to a properly CalRecycle permitted facility. Didn't address the issue of accumulation at a facility from accidental or incidental but could if it's necessary to protect the facility – if we do maybe in the section that clearly states that the facilities are not required to be licensed.]

4. The operator or owner of the collection vehicle regularly provides information to their retail store clients regarding the proper disposal of animal parts and products of animals for use by the management of their store locations in their normal worker health and safety education and training programs; and,

[The educational requirement. Put in "regularly" for frequency. Wasn't sure who you provide educational material to – so put in management of the store]

5. The operator or owner of the collection vehicle shall apply once and certify to the Department that they comply with 1180.50(a)(1-4).

[Apply once for the exemption and say you can comply with 1-4. CDFA will probably want information on the vehicles being exempted.]

- A. The Department will approve the application.

[Need the Department to provide approval]

- B. To determine compliance with 1180.50(a)(1-4), the Department may require random load checks of collection vehicles through visual observation or load sorting.

[Previously we talked about establishing a "de minimus" amount, worked that around several times, but it suggests then the operator would be checking containers to make sure there was an amount in there that's less than "de minimus." Suggesting load checks – as it's something that already happens? We could specify frequency or conditions of a load check but didn't want to make it any more prescriptive than necessary.]

- C. If compliance issues are discovered, the operator or owner of the collection vehicle shall immediately take steps to educate their clients regarding the proper disposal of animal parts and products

[Suggests that the corrective action is education, not punitive. Could also say that the education would be focused on the facilities where the load originated?]

- D. If the Department determines that repeated failure to comply is not caused by disposal incidental to cleaning or sanitation or accidental disposal, the operator or owner of the vehicle(s) will be required to register as a transporter of uncooked inedible parts or products of animals per 1180.50(a).

[Says that if an operator can't get it together to only have accidental or incidental than they should register as a transporter. We could be specific about what repeated failure is? Also could put in appeal process for revocation of the exemption, since revocation might put a facility at risk for losing its license exemption.]

Licensing of Facilities

1180.X. A permitted facility is not considered a rendering facility or a collection center as defined by the FAC or this subchapter, if it only handles and disposes of waste transported by collection vehicles that are in compliance with 1180.50(a)(1-4).

[Clearly establishes that the facility receiving solid waste from exempted vehicles doesn't require to be licensed – even though an exempted vehicle might transport parts or products of animals disposed of incidental to cleaning or by accident. Could add in something about that accumulation of accidental/incidental from exempted transporters suggests education of the hauler and their clients not jeopardy of loss of the license exemption.]