

TITLE 3. FOOD AND AGRICULTURE

NOTICE OF POST-HEARING MODIFICATIONS TO THE REGULATION TEXT RELATING TO TRANSPORTERS OF INEDIBLE KITCHEN GREASE

NOTICE OF TWO DOCUMENTS ADDED TO THE RULEMAKING FILE

NOTICE IS HEREBY GIVEN of proposed modifications to the originally proposed text for section 1180.1 of Article 37, and section 1180.24 of Article 42, Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations. The proposal pertains to the action described in the Informative Digest published in the California Regulatory Notice Register on June 8, 2012 [Notice File No. Z2012-0529-07, Register 2012, No. 23-Z] relating to persons registered with the Department of Food and Agriculture (Department) to transport inedible kitchen grease. The Department is now providing notice of proposed modifications to the regulation text and related forms as specified. A copy of the modified text and forms added to the rulemaking file are enclosed.

NOTICE IS HEREBY GIVEN that the Department proposed to delete Form 79-120 (Est. 03/12), and add Form 79-124 (Est. 09/12) and Form 79-125 (Est. 09/12) to the rulemaking file. The forms relate to the action described above [California Regulatory Notice Register 2012, No. 23-Z]. Form 79-120 is stricken from the rulemaking file and is included with this notice and shown in strikeout. Form 79-124 and Form 79-125 have been added to the rulemaking file pursuant to Government Code sections 11346.8(d), 11346.9(a)(1) and 11347.1. The forms are available for public inspection at the Meat, Poultry and Egg Safety Branch located at 2800 Gateway Oaks Drive, Sacramento, California, from October 15, 2012 and ending at 5:00 p.m. October 30, 2012, between the hours of 8:00 a.m. and 5:00 p.m. The documents are included with this notice and any additional copies may be obtained by contacting the person named in this notice.

Written comments regarding the original proposal: Written comments already received for this proposal during its initial public notification period beginning June 8, 2012 and ending at 5:00 p.m. July 23, 2012, and received the day of the public hearing held August 21, 2012, will become a part of the Department's official rulemaking file.

Written comments regarding the modified text and forms: If any person wishes to comment on the modifications to the text and Form 79-120, Form 79-124, and Form 79-125, the written comment must be submitted to the contact person named in this notice beginning October 15, 2012 and ending at 5:00 p.m., October 30, 2012. The written comments are to be restricted to the recent modifications as shown in the attached regulatory text and related forms. The Department is not required to respond to comments received in response to this notice on other aspects of the proposed regulation. All written comments previously submitted during the initial public comment period ending July 23, 2012, or received the date of the public hearing on August 21, 2012, remain in the rulemaking file. All written comments received by 5:00 p.m. October 30, 2012, which pertain to the indicated changes, will be reviewed and responded to by Departmental staff as part of the compilation of the rulemaking file.

Contact Person

Written comments regarding the proposal, as modified, are to be sent to the following person:

Douglas Hepper, DVM, Chief
Department of Food and Agriculture, Meat, Poultry and Egg Safety Branch
1220 N Street, Sacramento, CA 95814; Email: douglas.hepper@cdfa.ca.gov

The backup contact person is:

Nancy Grillo, Regulation Coordinator
Department of Food and Agriculture, Animal Health and Food Safety Services
1220 N Street, Sacramento, CA 95814; Email: nancy.grillo@cdfa.ca.gov

Material relating to this proposal may be found at the following Internet address:
<http://www.cdfa.ca.gov/ahfss/regulations.html>

DATED:

10/10/12


Douglas Hepper, DVM

DEPARTMENT OF FOOD AND AGRICULTURE
MEAT, POULTRY AND EGG SAFETY BRANCH
PROPOSED REGULATIONS
MODIFIED TEXT
TRANSPORTERS OF INEDIBLE KITCHEN GREASE

Legend for Modified Text:

- Single underline and ~~strikeout~~ is text that was noticed to the public for a 45-day comment period ending July 23, 2012.
- Modified text is shown in ~~strikeout~~ and double underline for deleted text, and double underline for added text.

Legend for Documents Added to the Rulemaking File:

- The deleted Form 79-120 (Est. 03/12) is shown in strikeout with an "X".
- The proposed new Forms 79-124 (Est. 09/12) and 79-125 (Est. 09/12) are shown in plain text.

All written comments must address only the modified text and/or related forms.

The Department of Food and Agriculture (Department), Meat, Poultry and Egg Safety Branch, proposed to amend section 1180.1 of Article 37, amend section 1180.3.2 of Article 37.1, amend section 1180.20, and repeal and adopt section 1180.24 of Article 42, Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations.

The Department is now proposing modifications to section 1180.1 of Article 37 and 1180.24 of Article 42, Subchapter 2, Chapter 4, Division 2, of Title 3 of the California Code of Regulations, to read as follows:

Section 1180.1. Licensing and Registration Requirements.

* * *

(d) The following application forms shall be provided by the Department for use by applicants, and are incorporated by reference in this subchapter:

- (1) MPES Form 79-005A (Rev. 08/11), Dead Animal Hauler License Application
- (2) MPES Form 79-006A (Rev. 08/11), Collection Center License Application
- (3) MPES Form 79-007A (Rev. 08/11), Renderer License Application
- (4) MPES Form 79-012A (1) (Rev. 08/11) Personal Use Inedible Kitchen Grease (Used Cooking Oil) Transporter Registration Application
- (5) MPES Form 79-012A (2) (Rev. 08/11) Commercial Use Inedible Kitchen Grease Transporter Registration Application
- (6) MPES Form 79-015 (Rev. 08/11), Driver/Vehicle Information for Renderers

(7) MPES Form 79-015A (Rev. 08/11), Registration Of Transporters Of Inedible Materials

(8) MPES Form 79-018 (Rev. 08/11) Application For Permit To Remove Inedible Material From A Rendering Plant

(9) MPES Form 79-019A (Rev. 08/11) Inedible Kitchen Grease Renderer Application

(10) MPES Form 79-020 (Rev. 08/11), Driver/Vehicle Identification for Collection Centers

~~(11) MPES Form 79-120 (Est. 03/12) Manifest – Inedible Kitchen Grease Transport~~

~~(11)~~ ~~(12)~~ (11) MPES Form 79-121 (Rev. 08/11) Permit Request To Dispose Of Carcasses At A Landfill

~~(12)~~ ~~(13)~~ (12) MPES Form 79-122 (Rev. 08/11) Permit To Transport Carcass(es) To A Landfill

(13) MPES Form 79-124 (Est. 09/12) Manifest – Inedible Kitchen Grease Transport Instructions and Receiving Facility Information.

(14) MPES Form 79-125 (Est. 09/12) Manifest – Inedible Kitchen Grease Transport Generator Information.

~~(13)~~ ~~(14)~~ (15) ACORD Form 25 Certificate of Liability Insurance (2001/08)

* * *

(m) A facility or operation authorized to receive and process inedible kitchen grease pursuant to the Integrated Waste Management Act (Public Resources Code 40000 et seq.) or a wastewater treatment plant, as defined in section 13625 of the Water Code, that accepts inedible kitchen grease removed from grease traps and grease interceptors is not considered to be “engaged in the business of rendering” for the purpose of Food and Agricultural Code section 19300 if it meets the following conditions:

(1) It does not produce commercial feed as defined by Food and Agricultural Code Section 14925.

(2) It does not produce liquid fuel or a constituent of liquid fuel, except when it produces a gaseous fuel that it subsequently liquefies, and

(3) It does not accept animal carcasses, parts of animals, packinghouse waste, or inedible kitchen grease derived from sources other than grease traps and grease interceptors.

NOTE: Authority cited: Sections 407, 19380, 19381, 19382, 19383, 19384 and 19385, Food and Agricultural Code. Reference: Sections 19227, 19240, 19260, 19280, 19300, 19300.5, 19310, 19310.5, 19312, 19315, 19320, 19321 and 19360, Food and Agricultural Code.

* * *

Section 1180.24. Requirements to document and track the removal, transport, and disposal of inedible kitchen grease.

(a) Pursuant to section 19316.5 of the Food and Agricultural Code, the Department is establishing a system for documenting and tracking the transportation of inedible kitchen grease in order to ensure the proper disposal or recycling of that material.

(b) Definitions:

(1) "Authorized receiving facility" or "receiving facility" means a licensed renderer, a licensed collection center, a permitted landfill facility or operation authorized to receive and process inedible kitchen grease pursuant to the Integrated Waste Management Act (Public Resources Code 40000 et seq.), or a permitted wastewater treatment facility, such as a publicly owned treatment works, that accepts the direct receipt of transported inedible kitchen grease, or other facility approved by the department to receive inedible kitchen grease.

(2) "Generator" means any location where inedible kitchen grease is collected from a grease container, grease interceptor, or grease trap, including, but not limited to, a collection center or any food preparation, processing, or handling establishment or facility.

(3) "Inedible kitchen grease" means any fat or used cooking greases and oils obtained from any source pursuant to Food and Agricultural Code section 19216. Inedible kitchen grease removed from grease traps and grease interceptors includes all grease, greasy liquid, water and solids contained in the grease trap or grease interceptor.

~~(3)~~ (4) "Manifest" means a record, in writing, on a fill-in-the-blanks printed or electronic form that is legible and easy to read.

~~(4)~~ (5) "Weighmaster" or "weighmaster certificate" means a person holding licensure and is certified with the Department's Division of Measurement Standards in accordance with sections 12700-12736 of the Business and Professions Code.

(6) "Weighmaster certificate" means an official document issued by a weighmaster that verifies the net weight of a load of inedible kitchen grease.

(7) "Working capacity" means the total volume of all grease, greasy liquid, water and solids contained in the grease trap or grease interceptor when it is in a static state (i.e., with no material flowing in or out of it).

(c) Personal noncommercial transporters of inedible kitchen grease shall keep and maintain a record, in writing, for not less than two years for each pick-up of inedible kitchen grease. The record shall provide the following information:

(1) Date and time of receipt of inedible kitchen grease

(2) Name and address where the inedible kitchen grease was obtained

(3) Amount (lbs. or gallons) of inedible kitchen grease picked up

(4) Name of driver who transported the inedible kitchen grease

(5) Name and address where the inedible kitchen grease was delivered

(d) Commercial transporters of inedible kitchen grease shall keep and maintain a manifest for each pick-up and delivery of inedible kitchen grease. The manifest shall include the following:

(1) The name of the transporter.

(2) The name and address of the generator and the printed name and signature of an on-site representative of the generator.

(A) The generator and the transporter of inedible kitchen grease may enter into an agreement, prepared in advance, in writing, and signed by both parties, whereby the generator authorizes the transporter to sign the generator's part of the manifest on its behalf.

(B) Copies of the agreement in described in subsection (d)(2)(A) shall be maintained by the generator and the transporter as long as the agreement is in effect and shall be made available to the Department upon demand.

(C) If a written agreement, as described in subsection (d)(2)(A), is not in place and a transporter is unable to obtain the signature of an on-site representative of the generator, the transporter shall attach a statement explaining why the transporter was unable to obtain a signature, to the generator part of the manifest. A copy of this statement shall be provided to the generator along with the copy of the generator part of the manifest and a copy shall be attached to the generator part of the manifest maintained by the transporter.

(3) The date and time the inedible kitchen grease was collected.

(4) The total capacity of the container or containers from which the inedible kitchen grease was obtained by the generator. For containers of used cooking oil, this is the total empty capacity of the container or containers. For grease traps and grease interceptors, this is the working capacity of the grease trap or grease interceptor.

(5) The total empty capacity of the container or containers used to transport inedible kitchen grease on the inedible kitchen grease transport vehicle.

(4) (6) The type and amount, in gallons or pounds, of inedible kitchen grease collected at each generator, transported, and delivered to the receiving facility. Types of inedible kitchen grease are:

(A) The amount of inedible kitchen grease shall be determined by use of a meter, scale, container calibrations, other accurate measuring device, or best estimate, taking into account the total empty capacity of the container or containers and the proportion of the container or containers filled with inedible kitchen grease.

(B) The types of inedible kitchen grease are:

(A) (i) Used cooking oil.

~~(B)~~ (ii) Interceptor/trap grease.

(C) For grease traps and grease interceptors, the amount of inedible kitchen grease collected must equal the working capacity of the grease trap or grease interceptor pursuant to Penal Code section 374.5 and Public Resources Code section 16051, unless the transporter meets all conditions for reinsertion of material removed from a grease trap or grease interceptor required by Penal Code subsection 374.5(b).

~~(5)~~ (7) The printed name of the driver collecting, transporting, and delivering the inedible kitchen grease and the driver's signature attesting to the accuracy of the information on the manifest.

~~(6)~~ (8) The number on the Department issued decal affixed to the vehicle transporting the inedible kitchen grease.

~~(7)~~ (9) The name and address of the authorized receiving facility where the inedible kitchen grease was delivered.

~~(8)~~ (10) The date and time the inedible kitchen grease was delivered.

~~(9)~~ (11) The printed name and signature of a responsible individual at the receiving facility acknowledging receipt of the inedible kitchen grease and verifying the amount, in gallons or pounds, of inedible kitchen grease received.

(A) A weighmaster certificate for the load of inedible kitchen grease, issued by a Department licensed weighmaster, may be used by the receiving facility to determine the amount of inedible kitchen grease delivered. The amount of inedible kitchen grease shall be determined by use of a meter, scale, weighmaster certificate, container calibrations, or other accurate measuring device or best estimate, taking into account the total empty capacity of the container or containers and the proportion of the container or containers filled with inedible kitchen grease.

(B) For receipt of interceptor/trap grease, the receiving facility and the transporter of inedible kitchen grease may enter into an agreement, prepared in advance, in writing, and signed by both parties, whereby the receiving facility authorizes the transporter to sign the receiving facility's part of the manifest on its behalf.

(C) Copies of the agreement in described in subsection (d)(9)(11)(B) shall be maintained by the receiving facility and the transporter as long as the agreement is in effect and shall be made available to the Department upon demand.

(D) When an agreement such as described in subsection (d)(9)(B) above exists and the transporter signs on behalf of the receiving facility, the transporter shall have verifiable proof of the amount, in gallons or pounds, of inedible kitchen grease delivered to the receiving facility. This proof shall be in the form of a time dated printout from a scale or volume meter at the

receiving facility or a weighmaster certificate for the load of inedible kitchen grease issued by a Department licensed weighmaster.

(10) (12) A consecutive numerical tracking manifest number to assist transporters, inedible kitchen grease generators, and regulating authorities in tracking the volume of grease transported.

(e) Transporters of inedible kitchen grease shall use a written manifest form of their own creation or they may use the MPES Form 79-120 (Est. 03/12) Manifest – Inedible Kitchen Grease Transport MPES Form 79-124 (Est. 09/12) Manifest – Inedible Kitchen Grease Transport Instructions and Receiving Facility Information, and MPES Form 79-125 (Est. 09/12) Manifest – Inedible Kitchen Grease Transport Generator Information, that the Department shall provide upon request for the cost of production, handling, and postage.

(f) If the manifest is completed and maintained in an electronic format, the manifest and required signatures shall conform with standards established by the California Uniform Electronic Transactions Act, California Civil Code, Title 2.5, Part 2, Division 3 (commencing with section 1633.1).

(g) Manifests shall be divided into three parts and records each part shall be maintained as follows:

(1) One part of the manifest shall have the generator's name and address; the registered transporter's name; the driver's signature; the printed name and signature of a representative of the generator, as indicated in subsection (d)(2) above; the total capacity or working capacity of the container or containers at the generator from which the inedible kitchen grease was obtained; the amount of inedible kitchen grease removed by the transporter; the type of inedible kitchen grease picked up; and the date and time of inedible kitchen grease removal and the numerical manifest number assigned to the load of inedible kitchen grease that the picked up inedible kitchen grease becomes part of.

(A) This part of the manifest shall be kept on the transporting vehicle from the time of inedible kitchen grease pick up until delivery of the inedible kitchen grease to a receiving facility and shall be made available, upon demand, to representatives of the Department and law enforcement agencies.

(B) A copy of this part of the manifest shall be given to the generator at the time of inedible kitchen grease removal or it shall be mailed or delivered to the generator no later than 45 calendar days after removal of the inedible kitchen grease.

(2) The remaining two parts of the manifest shall contain all information and signatures as required in subsection (d) and shall be distributed as follows: One part of the manifest shall have the authorized receiving facility name and address; the registered transporter's name; the Department-issued vehicle decal number; the driver's printed name, signature and date signed;

the printed name and signature of a representative of the authorized receiving facility and date signed, as indicated in subsection (d)(11); the total empty capacity of the container or containers used to transport inedible kitchen grease on the transporting vehicle; the amount of inedible kitchen grease received; the type of inedible kitchen grease received; and the manifest number for the load.

~~(A) One part of the manifest shall go to the receiving facility.~~

~~(B) One part shall be retained by the transporter.~~

(A) A copy of this part of the manifest shall be given to the authorized receiving facility at the time of inedible kitchen grease receipt or it shall be mailed or delivered to the authorized receiving facility no later than 15 business days after receipt of the inedible kitchen grease.

(B) The receiving facility shall keep and maintain this part of all manifests for two years and shall make such copies available, upon demand, to representatives of the Department and law enforcement agencies.

(3) The third part of the manifest shall have all the information required in subsections (g)(1) and (2). ~~(h)~~ The transporter and the receiving facility shall keep and maintain copies this part of all manifests for two years and shall make such copies available, upon demand, to representatives of the Department and law enforcement agencies.

NOTE: Authority cited: Sections 407 and 19380, Food and Agricultural Code. Reference: Sections 19303, 19313.1, and 19316.5, Food and Agricultural Code.

DELETED FORM

STATE OF CALIFORNIA

DEPARTMENT OF FOOD AND AGRICULTURE

Meat, Poultry and Egg Safety Branch
 1220 N Street
 Sacramento, CA 95814
 (916) 900-3004
 79-120 (Est. 03/12)

Manifest No. 00001

Manifest - Inedible Kitchen Grease Transport

Receiving Facility Name:	Date:	Total Amount of Inedible Kitchen Grease Received:	Lbs. Gal.
Receiving Facility Address:	Time:	Type of Inedible Kitchen Grease (Check One): <input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease	
Transporter Name:	Vehicle Decal Number:		
Driver Name (Printed):	Receiving Facility Representative Name (Printed):		
Driver Signature:	Receiving Facility Representative Signature:		

Generator Name:	Date:	Total Amount of Inedible Kitchen Grease Removed:	Lbs. Gal.
Generator Address:	Time:	Type of Inedible Kitchen Grease (Check One): <input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease	
Transporter Name:	Generator Representative Name (Printed):		
Driver Signature:	Generator Representative Signature:		

Generator Name:	Date:	Total Amount of Inedible Kitchen Grease Removed:	Lbs. Gal.
Generator Address:	Time:	Type of Inedible Kitchen Grease (Check One): <input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease	
Transporter Name:	Generator Representative Name (Printed):		
Driver Signature:	Generator Representative Signature:		

Generator Name:	Date:	Total Amount of Inedible Kitchen Grease Removed:	Lbs. Gal.
Generator Address:	Time:	Type of Inedible Kitchen Grease (Check One): <input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease	
Transporter Name:	Generator Representative Name (Printed):		
Driver Signature:	Generator Representative Signature:		

Complete manifest from bottom section to top. Provide generator with receipt at time of grease removal or mail or deliver receipt to generator within 45 days. For loads obtained from more than three generators, complete the top receiving facility section only on the page containing information for last generator serviced.

DEPARTMENT OF FOOD AND AGRICULTURE

Meat, Poultry and Egg Safety Branch

1220 N Street

Sacramento, CA 95814

(916) 900-5004

79-124 (Est. 09/12)

Manifest No.: 00001**Proposed New Form**

Manifest - Inedible Kitchen Grease Transport Instructions and Receiving Facility Information

A complete Inedible Kitchen Grease (IKG) Transport Manifest is made up of the form below and all generator copies from MPES Form 79-125 (Manifest - Inedible Kitchen Grease Transport, Generator Copies) for generators who contribute IKG to the load. All forms in each manifest must have the same Manifest Number. Transporters must keep completed manifests for two years.

Manifest Instructions:

1. The driver of the IKG transport vehicle is responsible for entering all information on this form and on MPES Form 79-125, Manifest - Inedible Kitchen Grease Transport, Generator Copies, except for in the Receiving Facility and Generator Representative Name and Signature boxes. All entries must be in ink and legible. The driver must initial any corrections to information already entered.
2. Enter all information in the form below for each load of IKG. Give one copy of the completed form to the receiving facility at the time of delivery or mail or deliver the copy within 15 work days.
3. Enter the Manifest Number found at the top of this form in the Manifest No. box on the generator copy (MPES Form 79-125, Manifest - Inedible Kitchen Grease Transport, Generator Copies) for each generator that contributes to the load. All generator copies from all generators that make up the load must have the same Manifest Number as the attached Receiving Facility Information form.
4. Give the generator copy (MPES Form 79-125, Manifest - Inedible Kitchen Grease Transport, Generator Copies) to the generator at the time of IKG pick up or mail or deliver the copy to the generator within 45 days.
5. Attach the generator copies (MPES Form 79-125, Manifest - Inedible Kitchen Grease Transport, Generator Copies) to this form for all generators that contributed to the load of IKG. Maintain this form and the attached generator copies for two years from the date on this form.

Receiving Facility Name:			
Receiving Facility Address:			
Vehicle Container Capacity (pounds or gallons):	Total IKG Received (pounds or gallons):	Type of IKG:	<input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease
Registered Transporter Name:		Vehicle Decal Number:	
Driver Name (Printed):		Receiving Facility Representative Name (Printed):	
Driver Signature:		Receiving Facility Representative Signature:	
Date:		Date:	

DEPARTMENT OF FOOD AND AGRICULTURE

Meat, Poultry and Egg Safety Branch

1220 N Street

Sacramento, CA 95814

(916) 900-5004

79-125 (Est. 09/12)

**Manifest - Inedible Kitchen Grease Transport
Generator Information****Proposed New Form**

Complete forms, starting at bottom. Enter Manifest Number from MPES Form 79-124 for the load. Provide generator with copy at time of grease removal or deliver to generator within 45 days. Attach completed copies to MPES Form 79-124..

Date:	Time:	AM PM	Manifest Number:
Generator Name:			
Generator Address:			
Container Capacity (pounds or gallons):	Total IKG Removed (pounds or gallons):	Type of IKG:	<input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease
Transporter Name:		Generator Representative Name (Print):	
Driver Signature:		Generator Representative Signature:	

Date:	Time:	AM PM	Manifest Number:
Generator Name:			
Generator Address:			
Container Capacity (pounds or gallons):	Total IKG Removed (pounds or gallons):	Type of IKG:	<input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease
Transporter Name:		Generator Representative Name (Print):	
Driver Signature:		Generator Representative Signature:	

Date:	Time:	AM PM	Manifest Number:
Generator Name:			
Generator Address:			
Container Capacity (pounds or gallons):	Total IKG Removed (pounds or gallons):	Type of IKG:	<input type="checkbox"/> Used Cooking Oil <input type="checkbox"/> Interceptor/Trap Grease
Transporter Name:		Generator Representative Name (Print):	
Driver Signature:		Generator Representative Signature:	