



Rural Counties
Environmental Services
Joint Powers Authority
ESJPA

CHAIR – MICHAEL KOBSEFF, SISKIYOU COUNTY
VICE CHAIR – DENISE CARTER, COLUSA COUNTY
EXECUTIVE DIRECTOR – GREG NORTON

TECHNICAL ADVISORY GROUP (TAG)
TAG CHAIR – RACHEL ROSS, TEHAMA COUNTY
TAG VICE CHAIR – JIM MCHARGUE, AMADOR COUNTY
PROGRAM MANAGER – STACI HEATON

**Rural Counties' Environmental Services Joint Powers Authority
Board of Directors' & Technical Advisory Meeting
Residence Inn Sacramento Downtown at Capitol Park
1121 15th St.
Sacramento, CA 95814**

Thursday, March 14, 2019 9:00 a.m. – 3:00 p.m.

Only those items that indicate a specific time will be heard at the assigned time. All other items may be taken out of sequence to accommodate the Board, the staff, and the general public. Indicated time allocations are for planning purposes only and actual times will vary from those indicated.

I. Call to Order, Self-Introductions, and Determination of Quorum

II. Business Matters

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Discussion and possible action related to the following:

- A. Approval of Minutes from the Meeting of December 6, 2018 – Supervisor Kobseff, ESJPA Chair *(pp 3-9)*
- B. Election of the 2019 ESJPA/TAG Chair and Vice Chair – Supervisor Michael Kobseff, Siskiyou County *(page 11; 5 minutes)*
- C. Administrative Matters – Staci Heaton, ESJPA Program Manager *(5 minutes)*
 - 2018 Delegate and Alternate Roster *(page 13)*
 - FPPC Form 700
 - Solid Waste 101 Webinar
 - ESJPA Social Media
- D. CalRecycle Tire Amnesty Regional Grant Resolution –Larry Sweetser, ESJPA Consultant *(pp 15, 5 minutes)*

III. Public Comment

Any person may address the Board on any matter relevant to the Authority's business, but not otherwise on the agenda.

IV. Presentations

- A. SB 1383 Rulemaking Update – Hank Brady, SB 1383 Manager, CalRecycle (20 minutes)
- B. Stormwater Industrial Permit – Laurel Warddrip, Program Manager, State Water Resources Control Board (pp. 19-93; 30 minutes)
- C. Statewide Illegal Dumping Update – Sharon Anderson, Coordinator, CalRecycle (pp 95-103; 20 minutes)
- D. Camp Fire Recovery Effort: Post Disaster Hazardous Waste Management – Steve Rodowick, Recycling Coordinator, Butte County (15 minutes)
- E. Report from CalRecycle – CalRecycle Staff (10 minutes)

V. Legislative Update

Supplemental Package

(This item may be heard at any time during the meeting depending upon the availability of staff) Discussion of Legislation – John Kennedy, RCRC Legislative Advocate (15 minutes)

- A. Complete Text of Selected Bills
- B. Summary Listing of All Solid Waste Related Bills

VI. Member County Concerns/Comments

VII. Solid Waste/Regulatory Update

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Discussion and possible action related to the following:

- A. CalRecycle
 - Governor’s Proposed 2019-20 GGRF Allocations to CalRecycle – Staci Heaton (pp 107-108; 5 minutes)
 - SB 1383 Regulations and AB 1826 – Mary Pitto, RCRC Regulatory Affairs Advocate (pp 109-194; 5 minutes)
 - SB 212 Draft Regulatory Concepts – Larry Sweetser (pp. 195-281; 5 minutes)
 - AB 901 Recycling and Disposal Reporting Regulations – Larry Sweetser (5 minutes)
 - Electronic Wastes - Larry Sweetser (pp. 283-284; 5 minutes)
 - Lithium Batteries – Larry Sweetser (5 minutes)
- B. State Water Resources Control Board
 - Waste Discharge Permit Fees – Larry Sweetser (5 minutes)
 - Statewide Industrial General Storm Water Permit - Larry Sweetser (5 minutes)
- C. Department of Toxic Substances Control
 - Enforcement Actions – Larry Sweetser (5 minutes)
 - HHW Sorting Update – Larry Sweetser (5 minutes)
- D. Extended Producer Responsibility
 - CA Product Stewardship Council Update – Doug Kobold, Executive Director, CPSC (5 minutes)

- PaintCare Update – Daria Kent, Northern California Regional Coordinator, PaintCare *(5 minutes)*
 - Mattress Recycling Council Update – Liz Wagner, CA Territory Representative, MRC *(5 minutes)*
- E. Grant Program Update – Larry Sweetser *(5 minutes)*
- F. Highlights of November/December CalRecycle Meetings – Larry Sweetser *(5 minutes)*
- G. Other Regulatory Announcements/Issues of Interest
- CalRecycle In the Loop *(pp 285-291)*
 - CalRecycle E-Waste Updates *(pp 292-293)*
 - Cal EPA CUPA Newsletters *(pp 294-308)*
 - CalRecycle – Wildfire Debris Cleanup and Recovery *(pp 309-314)*
- VIII. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday, June 20, 2019.**
- IX. **Articles of Interest** **Page 315**
(pp 317-350)
- X. **Adjournment**

12:00 PM Lunch

1:00 PM

Technical Advisory Group Breakout Session

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This afternoon session will be a working session. You are invited and encouraged to participate in this afternoon session.

Solid Waste Management 101: Household Hazardous Waste – Larry Sweetser, ESJPA Consultant

Agenda Item II

BUSINESS MATTERS



**Rural Counties
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TAG VICE CHAIR – JIM MCHARGUE, AMADOR COUNTY
PROGRAM MANAGER – MARY PITTO

**Minutes of the Rural Counties'
Environmental Services Joint Powers Authority
Board of Directors Meeting
1215 K Street, Suite 1650, Sacramento, CA**

Thursday December 6, 2018

MEMBERS REPRESENTED

Lynn Morgan, Supervisor
Jim Mc Hargue, Director
Steve Rodowick, Recycle Coordinator
Todd Storti, Deputy Director
Eric Miller, Manager
Lavell Waiwaiole, Recycling Program Coordinator
Mike Azevedo, Assistant Director
Ted Ward, Director
Greg Stanton, Division Director
Talia Richardson, Engineering Technician
Mohammad Qureshi
Matt Kingsley, Supervisor
Lars Ewing, Public Services Director
Kati Galvani, Deputy Director
Tom Valentino, Manager
Ahmad Alkhayat, Public Works Director
Chester Robertson, CAO
Justin Nadler Solid Waste Superintendent
Stacy Corless, Supervisor
Lee Adams, Supervisor
Arthur Boyd, Recycling Coordinator
Michael Kobseff, Supervisor
Kim MacFarlane, Assistant Director Public Works
Rachel Ross, Agency Manager

Amador County
Amador County
Butte County
Butte County
Butte County
Calaveras County
Colusa County
Del Norte County
El Dorado County
Glenn County
Glenn County
Inyo County
Lake County
Lake County
Lassen County
Madera County
Modoc County
Mono County
Mono County
Sierra County
Siskiyou County
Siskiyou County
Tuolumne County
Tuolumne County

STAFF IN ATTENDANCE:

Mary Pitto, ESJPA Program Manager
Larry Sweetser, ESJPA Consultant
Paul Smith, VP Governmental Affairs
Julie Lunn, RCRC Office Assistant

RCRC Governmental Affairs
Sweetser and Associates, Inc.
RCRC Staff
RCRC Staff

Staci Heaton, Regulatory Affairs Advocate

RCRC Staff

GUEST SPEAKERS:

Michael Day, Trane

Alexandria Lovelace, EcoHero

Michael Coleman, CLGFA

Daria Kent, PaintCare

Doug Kobold, CPSC

Traci Hukill, N&R

Marcelle Graham, CalRecycle

Liz Wagner, MRC

OTHERS IN ATTENDANCE:

Gretchen Olsen, City of Stockton

Wendell Minshew SCS Engineering

Curt Fujii, Fujii Civil Engineering

Belinda Barlow

Alex Souza, CalRecycle

MEMBERS NOT REPRESENTED

Alpine County, Imperial County, Mariposa County, Nevada County, Plumas County, Shasta County, Sierra County, Trinity County.

I. Call to Order, Determination of Quorum and Self Introductions

Supervisor Kobseff ESJPA Chair, called the meeting to order at 9:03 a.m.

A Quorum was Determined. Self-introductions were made.

II. Business Matters

A. Approval of Minutes October 18, 2018 Meeting.

Supervisor Kobseff, ESJPA Chair called for the approval of the minutes from the October 18, 2018 Board of Directors meeting. The motion to approve minutes was made by Jim McHargue, Amador County and seconded by Arthur Boyd, Siskiyou County. The motion passed unanimously.

B. Review and Approval of the 2019 ESJPA Budget

Lisa McCargar provided an overview of the 2019 ESJPA Budget. RCRC provides the administrative services for the ESJPA. The ESJPA revenue comes from dues and grants and is projecting a \$25,000 surplus for the year. The Motion to Approve was made by Tedd Ward, Del Norte County and Seconded by Tom Valentino, Lassen County. The motion passed Unanimously

C. Review and approval of the 2019 Contract Services Agreement between ESJPA and RCRC.

The contract for 2019 services has a cost of \$66,000. The motion was made by Jim McHargue, Amador County and Seconded by Arthur Boyd, Siskiyou County.

D. ESJPA Staffing- Paul Smith

Paul informed the members of Mary Pitto's retirement. There is a commitment from RCRC to maintaining a high level of service for the ESJPA. Staci Heaton will assume the role of Program Manager. In addition, RCRC is hiring a lobbyist and regulatory analyst to continue the daily advocacy for the ESJPA. The services of Larry Sweetser will continue without interruption.

E. Review of RCRC Solid Waste Policy Principles- Mary Pitto

Mary Pitto provided an overview of the proposed policy principles. Tedd Ward expressed concerns with the declining plastics markets and the impact on overall recycling. Tedd suggested a requirement for plastics to meet the state recycling rate or impose limitations on usage. Members were asked for comments on the policy principles by January second.

III. Public Comment

There were no public comments. Chair Kobseff provided Mary Pitto with a resolution for her years of service. Jim McHargue indicated that Mary also received recognition from the Amador County Board of Supervisors.

IV. Presentations

A. EcoHero Lexi Presentation- Alexandria Lovelace, EcoHero Show.

Alexandria provided an overview of their program to educate school children on recycling. The program targets children in expectation that they will educate their parents. This program is eligible for use of beverage container funds. Members screened a video of the program and Alexandria demonstrated a portion of the actual presentation and encouraged members to join in. Jim McHargue of Amador County provided a summary of Amador County's efforts with the program.

B. Teaming Up: Affordable Outreach Strategies-Traci Hukill, Marketing Consultant, N & R Publications.

Traci provided an overview of their efforts to provide public education efforts through inserts that can be used for topics such as organics, compost, used oil program, safe battery management, and sharps management. These publications can be used in numerous jurisdictions with the same document to save money but can be customized to include county specific information. The inserts can be included in newspapers and mailed. Pricing includes the entire package from developing content, photo layout, and distribution. Jurisdictions can share the cost of the publication. Steve Rodowick provided information on Butte County's use of this service.

C. Presentation on Governmental Enterprise Funds-Michael Coleman, Fiscal Policy Advisor, California Local Government Finance Almanac.

Michael provided an overview of governmental enterprise funds, fees, and taxes. Taxes are used for many public general services that are not appropriate for a fee-based system or ability to pay such as police and fire. Cities can impose any tax not prohibited by law. Counties are authorized to provide certain taxes and the state has reserved certain taxes for certain purposes. Proposition 26 everything is a tax except certain items. A user fee or assessment is a charge on property for services and outlined in prop 218. User fees must be cost justified. If no voter approval it is an illegal tax. A regulatory fee is imposed to provide a service such as inspections and is limited to the benefit to the fee payer for that service and not used for other purposes. Rent is a charge for use of government property and is not required to be cost justified such as community hall or entrance. Reasonable administrative fees can be included. Any charge or supplemental fees may not need the same cost justifications. Some fees like tipping fees can fall into multiple categories. The distinction between costs and fees is

because of cost justification requirements and voter approvals. Counties can charge general taxes. An enterprise activity is often a service fee and may include property tax refunds, grants, interest, and royalties. Rate design is important to compute a fee for fixed and variable costs typical of solid waste rates. Many fees are being challenged as taxes. Fee may not exceed reasonable cost of services. A property related fee requires certain procedures such as majority protest and approval by majority voters. The requirement is for a majority of property owners or two-thirds of all voters in a jurisdiction's general election. One way to deal with requirements is to contract our services.

D. Report from CalRecycle- Marshallle Graham, Senior Environmental Scientist, Materials Management and Local Assistance Division.

Marshallle indicated she is the assigned CalRecycle staff for the ESJPA meetings. She indicated the December CalRecycle monthly meeting would provide criteria for availability of new recycling grants and tire grants. CalRecycle hosted a workshop on lithium batteries. There will also be presentation of annual reports for paint and mattress program and an item to start the rulemaking package on SB 1383, as well as outreach information for its implementation. Additional grant programs for the farm and ranch program and illegal sites will be presented. A cost allocation plan can be used for all fees.

V. Legislative Update

Paul Smith, Vice President of Government Affairs

Paul reported that the legislature was sworn in on Monday. The first meeting is the first Monday in December. The legislature then adjourns and will start the new session in January. The bill introduction deadline is the end of February. At the March meeting, we will know what bills are introduced and a more comprehensive report will be provided.

SB 33 (Skinner) is a spot bill introduced to address the national sword issue. There was a bill on this matter last year that got vetoed. There will likely be solid waste fee legislation and RCRC will insist that the discussion includes the landfill Waste Discharge Fee. Tom Valentino asked about approaching a sympathetic legislator. Some form of generator fee will be proposed as part of the fee. It is uncertain if there will be a bottle bill in the coming year.

VI. Member County Concerns/Comments- None

VII. Solid Waste Regulatory Update

A. CalRecycle

• **SB 1383 Regulations**

Mary Pitto reported that the formal rulemaking will start in mid-January. This draft will be similar to the last draft. We are reviewing the Economic Analysis with other stakeholders. The report is very general but a key part to review is the cost to local jurisdictions. The report indicates that by 2019, there will be 41 compost facilities

and 25 anaerobic digesters. We will need by 2025, 60 new compost facilities and 26 new anaerobic digesters. The cost for 2019 through 2030 will be \$21 billion, 50% from businesses and 50% from residential sources. The business increase per year will be \$662 and \$17 per household. Rural areas may have lower costs due to less inspections and phased in implementation. The new anaerobic digesters will be \$45 million apiece. A new facility in Santa Barbara has already cost \$250 million and they have been working on it since 2002. The costs for local government will be from capacity planning, education, enforcement, procurement, and reporting at a cost of \$402 million statewide and \$114 million in subsequent years. Tedd Ward asked if any jurisdictions have done cost estimates for implementation. It is not clear how all of the goals will be met. There is discussion of possible legislation to address the various issues. Members were requested to provide the ESJPA any costs or studies done.

- **Mandatory Commercial Recycling- Mary Pitto**
Mary reported that CalRecycle is continuing compliance orders for failure to implement mandatory commercial recycling. Members should make sure they are implementing their program. Four jurisdictions are coming forward for compliance in December.
- **Processing Payment Emergency Regulations- Mary Pitto**
Mary reported that CalRecycle is proposing emergency regulations for processing payments and rural processing payments are higher. Urban areas are 11.5 % and rural areas are 16.5%
- **AB 901 Recycling and Disposal Reporting Regulations-Larry Sweetser**
Larry reported CalRecycle ended their last 15-day comment period. One comment we made was that the host jurisdiction is assigned all of the residual tonnages for facilities. CalRecycle is still looking for jurisdictions to test the new system.
- **Electronic Wastes- Larry Sweetser**
Larry reported that some e-waste vendors are rejecting certain low metal content items such as coffee pots. The CalRecycle Future of e-waste project should help but is years away.
- **Lithium Batteries- Larry Sweetser**
Larry reported that lithium batteries are a big problem in solid waste facilities from fires. CalRecycle held a workshop. There is no system for tracking fires. Damaged batteries require special handling. Doug Kobold reported that MRF operators are concerned about reporting fires due to possible insurance policy cancellations. Tedd asked about any progress on mandatory labeling. There are limited efforts in a new labeling system.

B. State Water Resources Control Board

- **Waste Discharge Fees-Larry Sweetser**

The State Water Resources Control Board approved the waste discharge fee structure as proposed by staff. One correction is that although the actual fee is unchanged, there is no rebate this year so the overall bill is higher.

- **Statewide Industrial General Stormwater Permit- Larry Sweetser**
Larry updated the members that the industrial general permit was revised and we will request the water board staff to provide a presentation at the next meeting. If members have any issues, please let Larry know.

C. Department of Toxic Substances Control

- **Enforcement Actions- Larry Sweetser**
Larry reported that DTSC continues to conduct increased enforcement of facilities especially for e-waste handling. Stericycle is one of the major household hazardous waste contractors and received a \$1.4 million-dollar penalty for various hazardous waste violations.
- **HHW Sorting Update- Larry Sweetser**
Larry reported that DTSC has expressed concerns about reuse of household hazardous wastes especially regarding the Smarter Sorting company. Larry will continue to monitor the issue.

D. Extended Producer Responsibility

- **CA Product Stewardship Council Update-Doug Kobold CPSC**
Doug, and CPSC Board members, provided Mary Pitto with recognition of your efforts. CPSC is advertising for a Program Manager and a three quarter time administrative analyst. CPSC has received a \$3 million two year federal grant for safe disposal of medications. There will be 100,000 mail-away envelopes. There will also be 270 bins placed in jurisdiction pharmacies or law enforcement locations and every county will get at least one and the rest ranked on need. SB 212 implementation will take several years so this effort will fill the gap. The programs is expected to start in January. CPSC is involved in legislative efforts on packaging and mattress stewardship fixes.
- **Carpet America Recovery Effort (CARE) Update- Lisa Mekis- Not in Attendance**
- **PaintCare Update Daria Kent, Northern California Regional Coordinator**
Daria reported that the annual report has been submitted to CalRecycle and is on the web site. Program successes include 827 year-round drop off sites with a 15-mile radius serving 98.5% of population. Paint from 331 household hazardous waste facilities was managed and from 213 drop-off sites. There were 11 paint-only drops-off 5 events, 105 large volume pickups collecting at least 200 gallons per site and increase of 61%. PaintCare partnered with 16 door-to-door programs. Nearly four million gallons of post-consumer paint was collected which was a 12% increase with a 93% reuse rate. Retail facilities provided 47% of the collected paint. There was about 2,600 tons of plastic and cans and increase of 35% from last year. Siskiyou county is the latest jurisdiction signing up for the

program. Modoc County's agreement is pending. Anyone interested in having drop-off events should contact her.

- **Mattress Recycling Update- Liz Wagner**
Liz reported that new programs include two transfer stations in Siskiyou County, Recology Del Norte is on board, Plumas County has a trailer at a retailer. A modeling system is being developed. New employees, Jay and Michael, were introduced. Michael will be taking over most of Liz's territory. MRC will be targeting some Environmental Justice Outreach.
- E. **Grant Program Update**
Larry Sweetser reported that the Tire Amnesty Grant is underway and funds must be spent by August 31st. Events were held in Sierra County and used Local Conservation Corps staff. CalRecycle is offering Eligibility, Scoring Criteria, and Evaluation Process for the Recycled Fiber, Plastic, and Glass Grant Program (Greenhouse Gas Reduction Fund, Fiscal Year 2018-19) and Recycling Market Development Revolving Loan Program Eligibility Criteria (Recycling Market Development Revolving Loan Subaccount). The ESJPA resubmitted the USDA Grant for development of an organics guide and more training for the members.
- F. **Highlights November/December CalRecycle Meetings--** Larry Sweetser reported CalRecycle is preparing grant eligibility criteria for several grant programs. The RMDZ loan program eligibility will be discussed. Several jurisdictions are scheduled for compliance hearing related to Mandatory Commercial Recycling compliance. The enforcement policy is undergoing revisions including adding in consideration of China Sword impacts.
- G. **Other Regulatory Announcements/Issues of Interest**
- CalRecycle-Wildfire Debris Cleanup and Recovery
 - CalRecycle In the Loop
 - CalRecycle E-Waste Updates
 - Cal EPA CUPA Newsletters

VIII. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday March 14, 2019

Butte County Volunteered to present at the March 14, 2019 Board Meeting.

IX. Articles of Interest - Mary Pitto directed Members to the Board packet.

X. Adjournment- was called at 12:27 PM

Respectfully submitted,
Julie Lunn, Office Coordinator



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PROGRAM MANAGER – MARY PITTO

MEMORANDUM

To: ESJPA Board of Directors

**From: Staci Heaton
Program Director**

Date: March 4, 2019

RE: Election of ESJPA and TAG Chair and Vice Chair

The ESJPA Joint Exercise of Powers Agreement specifies that the Board shall elect its Chair and Vice Chair “from among its properly designate Delegates...who shall serve a term of one year or until their respective successor is elected.” Our current Chair is Supervisor Michael Kobseff, Siskiyou County, and the Vice Chair is Supervisor Michael Ranalli, El Dorado County.

In December of each year, the RCRC Board elects its Officers and makes a recommendation for the Chair and Vice Chair to the ESJPA for consideration. At their December Board meeting, the RCRC Board recommended Supervisor Michael Kobseff, Siskiyou County, as Chair of the ESJPA and Supervisor Denise Carter, Colusa County, as Vice Chair of the ESJPA.

In addition, each year the ESJPA Board elects a Technical Advisory Group (TAG) Chair and Vice Chair. The TAG is comprised of the Delegate’s staff Alternates that may act on behalf of the Delegates in their absence. Our current Chair is Rachel Ross, Tehama County, and the Vice Chair is Jim McHargue, Tehama County.

Staff Recommendations:

Staff recommends the Board of Directors take action to:

1. Elect the 2019 ESJPA Chair/Vice Chair.
2. Appoint the 2019 TAG Chair/Vice Chair.

ESJPA 2019 Delegate and Alternate Roster

County	Delegate	Alternate	2nd Alternate
Alpine	David Griffith	Terry Woodrow	
Amador	Brian Oneto	Jim McHargue	
Butte	Doug Teeter	Todd Storti	
Calaveras	Jack Garamendi	Gary Tofanelli	Joshua Pack
Colusa	Denise Carter	Michael Azevedo	
Del Norte	Gerry Hemmingsen	Tedd Ward	
El Dorado	Lori Parlin	Greg Stanton	
Glenn	John Viegas	Mohammad Qureshi	Talia Richardson
Imperial	Michael Kelley	John Gay	Ed Delgado
Inyo	Matt Kingsley	Rick Benson	
Lake	Moke Simon	Lars Ewing	
Lassen	Aaron Albaugh	Tom Valentino	Gracie Phillips
Madera	David Rogers	Ahmad Alkhayat	Jared Carter
Mariposa	Kevin Cann	Mike Healy	Sam Cerveny
Modoc	Geri Byrne	Kathie Rhoads	Chester Robertson
Mono	Stacy Corless	John Peters	Justin Nalder
Nevada	Dan Miller	Susan Hoek	
Plumas	Kevin Goss	Michael Sanchez	Robert Perreault
Shasta	Les Baugh	John Heath	Pat Minturn
Sierra	Lee Adams	Peter Huebner	Tim Beals
Siskiyou	Michael Kobseff	Ethan Garrett	Atrhur Boyd
Tehama	Bob Williams	Rachel Ross	
Trinity	John Fenley	Diane Radar	
Tuolumne	Sherri Brennan	Karl Rodefer	Kim MacFarlane



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TAG CHAIR – RACHEL ROSS, TEHAMA COUNTY
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Resolution #19-01

WHEREAS, the purpose of the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) is to provide programs for planning, management and operation of solid waste programs, and for other environmental services including, but not limited to, legislative and regulatory advocacy, solicitation of grant funding, and implementation of grant-funded projects; and,

WHEREAS, Public Resources Code sections 48000 et seq. authorize the Department of Resources Recycling and Recovery (CalRecycle) to administer various grant programs (grants) in furtherance of the State of California's (state) efforts to reduce, recycle and reuse solid waste generated in the state thereby preserving landfill capacity and protecting public health and safety and the environment; and

WHEREAS, The Rural Counties' Environmental Services Joint Powers Authority (ESJPA) allows regional grant projects; and

WHEREAS, CalRecycle grant application procedures require, among other things, an applicant's governing body to declare by resolution certain authorizations related to the administration of CalRecycle grants.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors authorizes the ESJPA to submit a tire amnesty regional application on behalf of itself as a regional participant.

BE IT FURTHER RESOLVED that the Executive Director or their designee is hereby authorized and empowered to execute on behalf of the participating jurisdictions all grant-related documents, including, but not limited to, applications, payment requests, agreements, and amendments necessary to secure grant funds and to implement the approved grant project; and

BE IT FURTHER RESOLVED that these authorizations are effective for five (5) years from the date of adoption of this resolution

The foregoing Resolution was passed by the Board of Directors of the Rural Counties' Environmental Services Joint Powers Authority this 14th day of March 2019.

Date Adopted: March 14, 2019

ATTEST/CERTIFIED: _____

Agenda Item IV

PRESENTATIONS

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT FACT SHEET FOR
STORM WATER DISCHARGES
ASSOCIATED WITH INDUSTRIAL ACTIVITIES
NPDES NO. CAS000001**

*The factsheet to the IGP was updated in January 2015 to correct typographical errors. The deadline listed in Section I.D.13 (page 8) and Section II.G.1 (page 27) of the factsheet for dischargers with outfalls to ocean waters to develop and implement a monitoring program in compliance with the California Ocean Plan model monitoring provisions was corrected to July 1, 2015, which is the deadline listed in finding 44 in the general order.

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I. BACKGROUND

A. Purpose

The purpose of this Fact Sheet is to explain the legal requirements and technical rationale that serve as the basis for the requirements of this Order 2014-0057-DWQ (General Permit), adopted by the State Water Resources Control Board (State Water Board) on April 1, 2014. This General Permit regulates operators of facilities subject to storm water permitting (Dischargers), that discharge storm water associated with industrial activity (industrial storm water discharges). This General Permit replaces Water Quality Order 97-03-DWQ. This Fact Sheet does not contain any independently-enforceable requirements; the General Permit contains all of the actual requirements applicable to Dischargers. In case of any conflict between the Fact Sheet and the General Permit, the terms of the General Permit govern.

B. History

The Federal Clean Water Act (CWA)¹ prohibits discharges from point sources to waters of the United States, unless the discharges are in compliance with a National Pollutant Discharge Elimination System (NPDES) permit. (CWA § 301(a).) In 1987, the CWA was amended to establish a framework for regulating municipal storm water discharges and discharges of storm water associated with industrial activity (industrial storm water discharges) under the NPDES program. (CWA § 402(p).) In 1990, the United States Environmental Protection Agency (U.S. EPA) promulgated regulations, commonly known as Phase I, establishing application requirements for storm water permits for specified categories of industries. (40 C.F.R. § 122.26.) In 1992, U.S. EPA revised the monitoring requirements for industrial storm water discharges. (40 C.F.R. § 122.44(i)(2), (4), (5).) In 1999, U.S. EPA adopted additional storm water regulations, known as Phase II. (64 Fed. Reg. 68722.) The Phase II regulations provide for, among other things, a conditional exclusion from NPDES permitting requirements for industrial activities that have no exposure to storm water.

Industrial storm water discharges are regulated pursuant to CWA section 402(p)(3)(A). This provision requires NPDES permits for industrial storm water discharges to implement CWA section 301, which includes requirements for Dischargers to comply with technology-based effluent limitations, and any more stringent water quality-based limitations necessary to meet water quality standards. Technology-based effluent limitations applicable to industrial activities are based on best conventional pollutant control technology (BCT) for conventional pollutants, and best available technology economically achievable (BAT) for toxic and non-conventional pollutants. (CWA § 301(b)(1)(A) and (2)(A).) To ensure compliance with water quality standards, NPDES permits may also require a Discharger to implement best management practices (BMPs). 40 Code of Federal Regulations section 122.44(k)(4) requires the use of BMPs to control or abate the discharge of pollutants when numeric effluent limitations (NELs) are infeasible. The State Water Board has concluded that it is infeasible to establish

¹ Federal Water Pollution Control Act of 1970 (also referred to as the Clean Water Act or CWA), 33 U.S.C. § 1201 et seq. All further statutory references herein are to the CWA unless otherwise indicated.

NELs for storm water discharges associated with industrial activity due to insufficient information at the time of adoption of this General Permit.

On April 17, 1997, the State Water Board issued NPDES General Permit for Industrial Storm Water Discharges, Excluding Construction Activities, Water Quality Order 97-03-DWQ (previous permit). This General Permit, Order 2014-0057-DWQ rescinds the previous permit and serves as the statewide general permit for industrial storm water discharges. The State Water Board concludes that significant revisions to the previous permit requirements are necessary for implementation, consistency and objective enforcement. As discussed in this Fact Sheet, this General Permit requires Dischargers to:

- Eliminate unauthorized non-storm water discharges (NSWDs);
- Develop and implement storm water pollution prevention plans (SWPPPs) that include best management practices (BMPs);
- Implement minimum BMPs, and advanced BMPs as necessary, to achieve compliance with the effluent and receiving water limitations of this General Permit;
- Conduct monitoring, including visual observations and analytical storm water monitoring for indicator parameters;
- Compare monitoring results for monitored parameters to applicable numeric action levels (NALs) derived from the U.S. EPA 2008 Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity (2008 MSGP) and other industrial storm water discharge monitoring data collected in California;
- Perform the appropriate Exceedance Response Actions (ERAs) when there are exceedances of the NALs; and,
- Certify and submit all permit-related compliance documents via the Storm Water Multiple Application and Report Tracking System (SMARTS). Dischargers shall certify and submit these documents which include, but are not limited to, Permit Registration Documents (PRDs) including Notices of Intent (NOIs), No Exposure Certifications (NECs), and Storm Water Pollution Prevention Plans (SWPPPs), as well as Annual Reports, Notices of Termination (NOTs), Level 1 ERA Reports, and Level 2 ERA Technical Reports.

C. Blue Ribbon Panel of Experts (Panel)

In 2005 and 2006, the State Water Board convened a Blue Ribbon Panel of Experts (Panel) to address the feasibility of NELs in California's storm water permits. Specifically, the Panel was charged with answering the following questions:

Is it technically feasible to establish numeric effluent limitations, or some other quantifiable limit, for inclusion in storm water permits?

How would such limitations or criteria be established, and what information and data would be required?²

The Panel was directed to answer these questions for industrial storm water discharge general permits, construction storm water discharge general permits, and area-wide municipal storm water discharge permits. The Panel was also directed to address both technology-based and water quality based limitations and criteria.

In evaluating the establishment of numeric limitations and criteria, the Panel was directed to consider all of the following:

- The ability of the State Water Board to establish appropriate objective limitations or criteria;
- How compliance is to be determined;
- The ability of Dischargers and inspectors to monitor for compliance; and
- The technical and financial ability of Dischargers to comply with the limitations or criteria.

Following an opportunity for public comment, the Panel identified several water quality concerns, public process and program effectiveness issues. A summary of the Panel's recommendations regarding industrial storm water discharges follows:³

- Current data are inadequate; accordingly, the State Water Board should improve monitoring requirements to collect useful data for establishing NALs and NELs.
- Required parameters for further monitoring should be consistent with the type of industrial activity (i.e., monitor for heavy metals when there is a reasonable expectation that the industrial activity will contribute to increased heavy metals concentrations in storm water).
- Insofar as possible, the use of California data (or national data applicable to California) is preferred when setting NELs and NALs.
- Industrial facilities that do not discharge to Municipal Separate Storm Sewer Systems (MS4s) should implement BMPs for their non-industrial exposure (e.g., parking lots, roof runoff) similar to BMPs implemented by commercial facilities in MS4 jurisdictions.

² State Water Board Storm Water Panel of Experts, *The Feasibility of Numeric Effluent Limits Applicable to Discharges of Storm Water Associated with Municipal, Industrial and Construction Activities* (June 19, 2006). <http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/numeric/swpanel_final_report.pdf>. [as of February 4, 2014].

³ See footnote 2.

- In all cases, Dischargers should implement a suite of minimum BMPs, including, but not limited to, good housekeeping practices, employee training, and preventing exposure of materials to rain.
- Standard Industrial Classification (SIC) code categories are not a satisfactory way of identifying industrial activities at any given site. The State Water Board should develop an improved method of characterizing industrial activities that will improve water quality in storm water.
- Recognizing that implementing the Panel's suggested changes is a large task, the State Water Board should set priorities for implementation of the Panel's suggested approach in order to achieve the greatest reduction of pollutants statewide.
- Recognizing that an increasing number of industries have moved industrial activities indoors to prevent storm water pollution, such facilities should be granted regulatory relief from NALs and/or NELs, but should still be required to comply with any applicable MS4 permit requirements.
- Recognizing the need for improved monitoring and reduction of pollutants in industrial storm water discharges, the State Water Board should consider the total economic impact of its requirements to not economically penalize California industries when compared to industries outside of California.

With regard to the industrial activities component of its charge, the Panel limited its focus to the question of whether sampling data can be used to derive technology-based NELs. The Panel did not address other factors or approaches that may relate to the task of determining technology- and water quality-based NELs consistent with the regulations and law. Examples of these other factors are discussed in more detail in this Fact Sheet. Additionally, in its final report the Panel did not clearly differentiate between the role of numeric and non-numeric effluent limitations, nor did it consider U.S. EPA procedures used to promulgate effluent limitation guidelines (ELGs) in 40 Code of Federal Regulations, Chapter I, Subchapter N (Subchapter N).

D. Summary of Significant Changes in this General Permit

The previous permit issued by the State Water Board on April 17, 1997, had been administratively extended since 2002 until the adoption of this General Permit. Significant revisions to the previous permit were necessary to update permit requirements consistent with recent regulatory changes pertaining to industrial storm water under the CWA. This General Permit differs from the previous permit in the following areas:

1. Minimum Best Management Practices (BMPs)

This General Permit requires Dischargers to implement a set of minimum BMPs. Implementation of the minimum BMPs, in combination with any advanced BMPs (BMPs, collectively,) necessary to reduce or prevent pollutants in industrial storm water discharges, serve as the basis for compliance with this General Permit's

technology-based effluent limitations and water quality based receiving water limitations. Although there is great variation in industrial activities and pollutant sources between industrial sectors and, in some cases between operations within the same industrial sector, the minimum BMPs specified in this General Permit represent common practices that can be implemented by most facilities.

The previous permit did not require a minimum set of BMPs but rather allowed Dischargers to consider which non-structural BMPs should be implemented and which structural BMPs should be considered for implementation when non-structural BMPs are ineffective.

This General Permit requires Dischargers to implement minimum BMPs (which are mostly non-structural BMPs), and advanced BMPs (which are mostly structural BMPs) when implementation of the minimum BMPs do not meet the requirements of the General Permit. Advanced BMPs consists of treatment control BMPs, exposure reduction BMPs, and storm water containment and discharge reduction BMPs. BMPs that exceed the performance expectation of minimum BMPs are considered advanced BMPs. Dischargers are encouraged to utilize advanced BMPs that infiltrate or reuse storm water where feasible.

The minimum and advanced BMPs required in this General Permit are consistent with U.S. EPA's 2008 Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (2008 MSGP), guidance developed by the California Stormwater Quality Association, and recommendations by Regional Water Quality Control Board (Regional Water Board) inspectors. Dischargers are required to evaluate BMPs being implemented and determine an appropriate interval for the implementation and inspection of these BMPs.

2. Conditional Exclusion - No Exposure Certification (NEC)

This General Permit applies U.S. EPA Phase II regulations regarding a conditional exclusion for facilities that have no exposure of industrial activities and materials to storm water. (40 C.F.R. § 122.26(g).) (The previous permit required light industries to obtain coverage only if their activities were exposed to storm water.) This General Permit implements current U.S. EPA rules allowing any type of industry to claim a conditional exclusion. The NEC requires enrollment for coverage prior to conditionally excluding a Discharger from a majority of this General Permit's requirements.

3. Electronic Reporting Requirements

This General Permit requires Dischargers to submit and certify all reports electronically via SMARTS. The previous permit used a paper reporting process with electronic reporting as an option.

4. Training Expectations and Roles

This General Permit requires that Dischargers arrange to have appropriately trained personnel implementing this General Permit's requirements at each facility. In

addition, if a Discharger's facility enters Level 1 status, the Level 1 ERA Report must be prepared by a Qualified Industrial Storm Water Practitioner (QISP). All Action Plans and Technical Reports required in Level 2 status must also be prepared by a QISP.

Dischargers may appoint a staff person to complete the QISP training or may contract with an outside QISP. QISP training is tailored to persons with a high degree of technical knowledge and environmental experience. Although QISPs do not need to be California licensed professional engineers, it may be necessary to involve a California licensed professional engineer to perform certain aspects of the Technical Reports.

5. Numeric Action Levels (NALs) and NAL Exceedances

This General Permit contains two types of NAL exceedances. An annual NAL exceedance occurs when the average of all sampling results within a reporting year for a single parameter (except pH) exceeds the applicable annual NAL. The annual NALs are derived from, and function similarly to, the benchmark values provided in the 2008 MSGP. Instantaneous maximum NALs target hot spots or episodic discharges of pollutants. An instantaneous maximum NAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the applicable instantaneous maximum NAL value. Instantaneous maximum NALs for Total Suspended Solids (TSS) and Oil and Grease (O&G) are based on previously gathered California industrial storm water discharge monitoring data. The instantaneous maximum NAL for pH is derived from the benchmark value provided in the 2008 MSGP.

6. Exceedance Response Actions (ERA)

This General Permit requires Dischargers to develop and implement ERAs, when an annual NAL or instantaneous maximum NAL exceedance occurs during a reporting year. The first time an annual NAL or instantaneous maximum NAL exceedance occurs for any one parameter, a Discharger's status is changed from Baseline to Level 1 status, and the Discharger is required to evaluate and revise, as necessary, its BMPs (with the assistance of a QISP) and submit a report prepared by a QISP. The second time an annual NAL or instantaneous maximum NAL exceedance occurs for the same parameter in a subsequent reporting year, the Discharger's status is changed from Level 1 to Level 2 status, and Dischargers are required to submit a Level 2 ERA Action Plan and a Level 2 ERA Technical Report. Unless the demonstration is not accepted by the State Water Board or a Regional Water Board, the Discharger is not required to perform additional ERA requirements for the parameter(s) involved if the Discharger demonstrates that:

- a. Additional BMPs required to eliminate NAL exceedances are not technologically available or economically practicable and achievable; or,
- b. NAL exceedances are solely caused by non-industrial pollutant sources; or,

- c. NAL exceedances are solely attributable to pollutants from natural background sources.

Information supporting the above demonstrations must be included in QISP-prepared Level 2 ERA Technical Reports.

7. CWA section 303(d) Impairment

This General Permit requires a Discharger to monitor additional parameters if the discharge(s) from its facility contributes pollutants to receiving waters that are listed as impaired for those pollutants (CWA section 303(d) listings). This General Permit lists the receiving waters that are 303(d) listed as impaired for pollutants that are likely to be associated with industrial storm water in Appendix 3. For example, if a Discharger discharges to a water body that is listed as impaired for copper, and the discharge(s) from its facility has the potential sources of copper, the Discharger must add copper to the list of parameters to monitor in its storm water discharge.

8. Design Storm Standards for Treatment Control BMPs

This General Permit includes design storm standards for Dischargers implementing treatment control BMPs. The design storm standards include both volume- and flow-based criteria. Dischargers are not required to retrofit existing treatment control BMPs unless required to meet the technology-based effluent limitations and receiving water limitations in this General Permit.

9. Qualifying Storm Event (QSE)

This General Permit defines a QSE as a precipitation event that:

- a. Produces a discharge for at least one drainage area; and,
- b. Is preceded by 48 hours with no discharge from any drainage area.

The definition above differs from the definition in the previous permit, resulting in an increase number of QSEs eligible for sample collection. Therefore, most Dischargers will be able to collect the required number of samples, regardless of their facility location.

10. Sampling Protocols

This General Permit requires Dischargers to collect samples during scheduled facility operating hours from each drainage location within four hours of: (1) the start of the discharge from a QSE occurring during scheduled facility operating hours, or (2) the start of scheduled facility operating hours if the QSE occurred in the previous twelve (12) hours. The benefits of this sampling protocol: (a) allows a more reasonable amount of time to collect samples, (b) increases the likelihood for samples collected at discharge locations to be representative of the drainage area discharge characteristics, (c) increases the number of QSEs eligible for sample collection, and, (d) reduces the likelihood of Dischargers collecting samples with short-term concentration spikes.

The previous permit required that Dischargers collect grab samples during the first hour of discharge that commenced during scheduled facility operating hours. These sample collection requirements were widely considered to be too rigid and out of step with other states' sample collection requirements. Since many storm events begin in the evening or early morning hours, numerous opportunities to collect samples were lost because Dischargers could not obtain samples during the first hour of discharge. Dischargers with facilities that have multiple discharge locations had difficulties collecting samples within such a short timeframe therefore affecting data quality.

11. Sampling Frequency

This General Permit increases the sampling frequency by requiring the Discharger to collect and analyze storm water samples from each discharge location for two (2) QSEs within the first half of each reporting year (July 1 to December 31), and two (2) QSEs within the second half of each reporting year (January 1 to June 30). The increased sampling, compared to the previous permit's two samples during the wet season, is consistent with the 2008 MSGP and other states' permit requirements and will improve compliance determination with this General Permit. The State Water Board expects that the elimination of the wet season sampling requirements will increase the number of possible QSEs eligible for monitoring.

12. Compliance Groups

To allow industrial facilities to efficiently share knowledge, skills and resources towards achieving General Permit compliance, this General Permit allows the formation of Compliance Groups and Compliance Group Leaders. Dischargers participating in a Compliance Group (Compliance Group Participants) are collectively required to sample twice a year. Compliance Group Leaders are required to be approved through the State Water Board-approved training program process, inspect each facility once within each reporting year, and prepare Level 1 and Level 2 ERA reports as necessary. The Compliance Group option is described in more detail in General Permit section XIV and in this Fact Sheet in the Section titled "Compliance Groups."

13. Discharges to Ocean Waters

This General Permit requires Dischargers with ocean-discharging outfalls subject to model monitoring provisions of the California Ocean Plan to develop and implement a monitoring plan in compliance with those provisions and any additional monitoring requirements established pursuant to Water Code section 13383. Dischargers who have not developed and implemented a monitoring program in compliance with the California Ocean Plan model monitoring provisions by July 1, 2015 or seven (7) days prior to commencing operations, whichever is later, are ineligible to obtain coverage under this General Permit.

II. TECHNICAL RATIONALE FOR REQUIREMENTS IN THIS GENERAL PERMIT

A. Receiving General Permit Coverage

1. This General Permit provides regulatory coverage for new and existing industrial storm water discharges and authorized NSWDs from:
 - a. Facilities required by federal regulations to obtain an NPDES permit;
 - b. Facilities designated by the Regional Water Boards to obtain an NPDES permit; and,
 - c. Facilities directed by the Regional Water Boards to obtain coverage specifically under this General Permit. The Regional Water Board typically directs a Discharger to change General Permit coverage under two circumstances:
 - (1) switch from an individual NPDES permit to this General Permit, or
 - (2) switch from the NPDES General Permit for Storm Water Discharges Associated with Construction And Land Disturbance Activities, (Order 2009-0009-DWQ, NPDES No CAS000002 (to this General Permit for long-term construction related activities that are similar to industrial activities (e.g. concrete batch plants).

40 Code of Federal Regulations section 122.26(b)(14) defines "storm water discharge associated with industrial activity" and describes the types of facilities subject to permitting (primarily by Standard Industrial Classification (SIC) code). This General Permit provides regulatory coverage for all facilities with industrial activities described in Attachment A where the covered industrial activity is the Discharger's primary industrial activity. In some instances, a Discharger may have more than one primary industrial activity occurring at a facility.

The 1987 SIC manual uses the term "establishment" to determine the primary economic activity of a facility. The manual instructs that where distinct and separate economic activities are performed at a single location, each activity should be treated as a separate establishment (and, therefore, separate primary activity). For example, the United States Navy (primary SIC code 9711) may conduct industrial activities subject to permitting under this General Permit, such as landfill operations (SIC code 4953), ship and boat building and repair (SIC code 3731, and flying field operations (SIC code 4581).

The SIC manual also discusses "auxiliary" functions of establishments. Auxiliary functions provide management or support services to the establishment. Examples of auxiliary functions are warehouses and storage facilities for the establishment's own materials, maintenance and repair shops of the establishment's own machinery, automotive repair shops or storage garages of the establishment's own vehicles, administrative offices, research, development, field engineering support, and testing conducted for the establishment. When auxiliary functions are performed at physically separate facilities from the establishment they serve, they generally are not subject to General Permit coverage. If

auxiliary functions are performed at the same physical location as the establishment, then they are subject to General Permit coverage if they are associated with industrial activities.

This clarification does not change the scope of which facilities are subject to permitting relative to the 1997 IGP. The 1997 IGP Fact Sheet had used the term "auxiliary" to describe a facility's separate primary activities, which has caused confusion.

In 1997, the North American Industrial Classification System (NAICS) was published, replacing the SIC code system. The U.S. EPA has indicated that it intends to incorporate the NAICS codes into the federal storm water regulations but has not done so yet. The State Water Board recognizes that many Dischargers in newer industries were not included in the 1987 SIC code manual and may have difficulty determining their SIC code information. To address this transition, SMARTS has been modified to accept both SIC codes and NAICS codes, and NAICS codes are automatically translated into SIC codes. There may be instances of conflict between SIC and NAICS codes. The use of NAICS codes shall not expand or reduce the types of industries subject to this General Permit as compared to the SIC codes listed in the General Permit. State Water Board staff will work closely with the applicant to resolve these conflicts in SMARTS as they are identified. Dischargers should be aware that the use of an NAICS code which results in failure to submit any of the required PRDs under this General Permit remains a violation of the terms of this General Permit.

The facilities included in category one of Attachment A (facilities subject to Subchapter N) are subject to storm water ELGs that are incorporated into the requirements of this General Permit. Dischargers whose facilities are included in this category must examine the appropriate federal ELGs to determine the applicability of those guidelines. This General Permit contains additional requirements (Section XI.D) that apply only to facilities with storm water ELGs.

2. Types of Discharges Not Covered by this General Permit

- a. Discharges from construction and land disturbance activities that are subject to the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit).
- b. Discharges covered by an individual or general storm water NPDES permit. Some industrial storm water discharges may be regulated by other individual or general NPDES permits issued by the State Water Board or the Regional Water Boards (Water Boards, collectively,). This General Permit shall not regulate these discharges. When the individual or general NPDES permits for such discharges expire, the Water Boards may authorize coverage under this General Permit or another general NPDES permit, or may issue a new individual NPDES permit consistent with the federal and state storm water regulations. Interested parties may request that the State Water Board or appropriate Regional Water Board issue individual or general NPDES permits for specific discharges that, in their view are not properly regulated through this General Permit. General permits may be issued for a particular industrial group or watershed area which

would supersede this General Permit. To date, two Regional Water Board have issued such permits:

- i. The Lahontan Regional Water Board has adopted an NPDES permit and general Waste Discharge Requirements to regulate discharges from marinas and maintenance dredging (Regional Water Board Order R6T-2005-0015 - NPDES Permit No. CAG616003) in the Lake Tahoe Hydrologic Unit.
 - ii. The Santa Ana Regional Water Board adopted the Sector Specific General Permit for Stormwater Runoff Associated with Industrial Activities from Scrap Metal Recycling Facilities within the Santa Ana Region, Order R8-2012-0012, NPDES Permit No. CAG 618001 (Scrap Metal Recycling Permit). The Scrap Metal Recycling Permit is applicable to facilities within the Santa Ana Region that are listed under Standard Industrial Classification (SIC) Code 5093 and engaged in the following types of activities: (1) automotive wrecking for scrap-wholesale (this category does not include facilities engaged in automobile dismantling for the primary purpose of selling second hand parts); (2) iron and steel scrap - wholesale; (3) junk and scrap metal - wholesale; (4) metal waste and scrap - wholesale; and (5) non-ferrous metals scrap - wholesale. Other types of facilities listed under SIC Code 5093 and engaged in waste recycling are not required to get coverage under the Scrap Metal Recycling Permit. A list of covered facilities as of February 8, 2011 was included in Attachment A of the Scrap Metal Recycling Permit.
- c. Discharges that the Regional Water Boards determine to be ineligible for coverage under this General Permit. In such cases, a Regional Water Board will require the discharges be covered by another individual or general NPDES permit. The applicability of this General Permit to such discharges is terminated when the discharge is subject to another individual or general NPDES permit.
- d. Discharges that do not enter waters of the United States. These include:
- i. Discharges to municipal separate sanitary sewer systems;
 - ii. Discharges to evaporation ponds, discharges to percolation ponds, and/or any other methods used to retain and prevent industrial storm water discharges from entering waters of the United States;
 - iii. Discharges to combined sewer systems. In California, the only major combined sewer systems are located in San Francisco and downtown Sacramento. Dischargers who believe they discharge into a combined sewer system should contact the local Regional Water Board to verify discharge location; and,
 - iv. Dischargers Claiming the "No Discharge" Option in the Notice of Non-Applicability (NONA) (Fact Sheet Section II.S).
- e. Discharges from mining operations or oil and gas facilities composed entirely of flows that are from conveyances or systems of conveyances used for collecting and conveying precipitation runoff and do not come into contact with any overburden, raw materials, intermediate products, finished products, by-products, or waste products located at the facility. (33 U.S.C. § 1342(I)(2).)
- f. Discharges from facilities on Tribal Lands regulated by U.S. EPA.

3. Obtaining General Permit Coverage (Section II of this General Permit)

The State Water Board has developed the SMARTS online database system to handle registration and reporting under this General Permit. More information regarding SMARTS and access to the database is available online at <https://smarts.waterboards.ca.gov>. The State Water Board has determined that all documents related to general storm water enrollment and compliance must be certified and submitted via SMARTS by Dischargers.

This General Permit requires all Dischargers to electronically certify and submit PRDs via SMARTS to obtain: (1) regulatory coverage, or (2) to certify that there are no industrial activities exposed to storm water at the facility and obtain regulatory coverage under the NEC provision of this General Permit. Facilities that were eligible to self-certify no exposure under the previous permit (see category 10 in Attachment 1 of the previous permit) are required to certify and submit via SMARTS PRDs for NOI coverage under this General Permit by July 1, 2015 or for NEC coverage by October 1, 2015. The Water Board is estimating that 10,000 – 30,000 Dischargers may be registering for NOI or NEC coverage under this General Permit. Separate registration deadlines, one for NOI coverage and one for NEC coverage, provides Dischargers better assistance from Storm Water Helpdesk and staff.

Dischargers shall electronically certify and submit the PRDs via SMARTS for each individual facility. This requirement is intended to establish a clear accounting of the name, address, and contact information for each Discharger, as well as a description of each Discharger's facility.

The Water Boards recognize that certain information pertaining to an industrial facility may be confidential. Many Stakeholders were asking for clarification on the process the Water Boards would use to manage confidential information or the process Dischargers could use to redact such information. Dischargers may redact trade secrets information from required submittals (Section II.B.3.d). Dischargers are required to include a general description of the redacted information and the basis for the redaction. Dischargers are still required to submit complete and un-redacted versions of the information to the Water Boards within 30 days, however these versions should be clearly labeled "CONFIDENTIAL" so that the confidentiality of these documents is clear to Regional Water Board staff, even when there is a change in staff. This General Permit requires that all information provided to the Water Boards by the Discharger comply with the Homeland Security Act and other federal law that addresses security in the United States.

All Dischargers who certify and submit PRDs via SMARTS for NOI coverage on or after July 1, 2015 or for NEC coverage on or after October 1, 2015, shall immediately comply with the provisions in this General Permit.

4. General Permit Coverage for Landfills

This General Permit covers storm water discharges from landfills, land application sites, and open dumps that receive or have received industrial waste from any facility covered by this General Permit. Industrial storm water discharges from these

facilities must be covered by this General Permit unless (1) they are already covered by another NPDES permit, or (2) the Regional Water Board has determined that an NPDES permit is not required because the site has been stabilized or required closure activities have been completed.

In most cases, it is appropriate for new landfill construction or final closure to be covered by the Construction General Permit, rather than this General Permit. Questions have arisen as to what constitutes new landfill construction at an existing landfill versus the normal planned expansion of a landfill. Similarly, questions have arisen about the type of closure activities that may be subject to the Construction General Permit versus the normal closure of "cells" that occurs during continued landfill operations and are not subject to the Construction General Permit. Other questions such as whether temporary or permanent newly graded/paved roads disturbing greater than one acre at a landfill are subject to the Construction General Permit. Landfill Dischargers have asked for clarity regarding these questions. The previous permit required Dischargers to contact the Regional Water Boards to determine permit appropriateness. Site specific circumstances continue to require Dischargers to contact Regional Water Boards for final determinations.

Based upon the State Water Board's storm water program history, there are only a handful of instances where an operating landfill has been simultaneously subject to both the construction and industrial permitting requirements. Typically a landfill is subject to the construction permitting requirements during the time the landfill is initially constructed and prior to operation. A landfill is subject to the industrial permitting requirements during landfill operations, and subject to the construction permitting requirements during final landfill closure activities.

Once a landfill begins operations, continued expansion or closure of incremental landfill cells is authorized under the industrial permitting requirements since these are normal aspects of landfill operations. These expansion/closure activities occur within a limited timeframe (often taking less than 90 days from beginning to end) and are not separately subject to additional local approval (e.g., a new building permit). Any construction or demolition of temporary non-impervious roads directly related to landfill operations are subject to the industrial permitting requirements.

Construction or closure of a separate section of the landfill that is either subject to additional permitting by the local authorities and/or lasts more than 90 days requires coverage under the Construction General Permit. Construction of permanent facility structures such as buildings and impervious parking lots or roads that disturb greater than one acre are also subject to the Construction General Permit. (Permanent facility structures are defined as any structural improvements designed to remain until the landfill is closed.)

Site specific circumstances such as proximity to nearby waterways, extent of activities, pollutants of concern, and other considerations can impact any decision as to whether a particular activity is to be regulated under this General Permit or the Construction General Permit. Regional Water Boards will continue to exercise their discretion as necessary to protect the beneficial uses of the receiving water(s).

5. General Permit Coverage for Small Municipal Separate Storm Sewer Systems (MS4s)

Section 1068 of the Intermodal Surface Transportation Efficiency Act of 1991 exempted municipal agencies serving populations of less than 100,000 from Phase I permit requirements other than sanitary landfills, power plants, and airports facilities. U.S. EPA's Phase II regulations eliminated the above exemption as of March 10, 2003. All facilities in Attachment A of this General Permit that are operated by a small municipal agency are subject to NPDES storm water permitting requirements and this General Permit.

6. Changes to General Permit Coverage

Dischargers who no longer operate a facility required to be covered under this General Permit (either NOI or NEC coverage) are required to electronically certify and submit via SMARTS a Notice of Termination (NOT). An NOT is required when there is a change in ownership of the industrial activities subject to permitting or when industrial activities subject to permitting are permanently discontinued by the Discharger at the site. When terminating NOI coverage, Dischargers may only submit an NOT once all exposure of industrial materials and equipment have been eliminated. Dischargers may not submit NOTs for temporary or seasonal facility closures. The General Permit requires Dischargers to implement appropriate BMPs to reduce or prevent pollutants in storm water discharges during the temporary facility closure.

This General Permit allows Dischargers to change General Permit coverage, as appropriate, from NOI coverage to NEC coverage or from NEC coverage to NOI coverage.

B. Discharge Prohibitions

This General Permit covers industrial storm water discharges and authorized NSWDs from industrial facilities and prohibits any discharge of materials other than storm water and authorized NSWDs (Section III and Section IV of this General Permit). It is a violation of this General Permit to discharge hazardous substances in storm water in excess of the reportable quantities established in 40 Code of Federal Regulations sections 117.3 and 302.4.

The State Water Board is authorized, under Water Code section 13377, to issue NPDES permits which apply and ensure compliance with all applicable provisions of the CWA, and any more stringent limitations necessary to implement water quality control plans, protect beneficial uses, and prevent nuisance.

C. Non-Storm Water Discharges (NSWDs)

Unauthorized NSWDs can be generated from various pollutant sources. Depending upon their quantity and location where generated, unauthorized NSWDs can discharge to the storm drain system during dry weather as well as during a storm event (comingled with storm water discharge). These NSWDs can consist of, but are not limited to; (1) waters generated by the rinsing or washing of vehicles, equipment,

buildings, or pavement, or (2) fluid, particulate or solid materials that have spilled, leaked, or been disposed of improperly.

Some NSWDs are not directly related to industrial activities and normally discharge minimal pollutants when properly managed. Section IV of this General Permit provides a limited list of NSWDs that are authorized if Dischargers implement BMPs to prevent contact with industrial materials prior to discharge. The list in Section IV is similar to the list provided in the 2008 MSGP but does not include pavement and external building surfaces washing without detergents. These two items are not included because the Discharger is responsible to reduce or prevent pollutants in storm water discharges from paved areas and buildings associated with industrial activities. Since industrial materials and non-industrial material likely co-exist, the washing of paved areas and external building surfaces may result in discharges of pollutants associated with industrial activities. In addition, washing activities generally occur during dry-weather periods when receiving water flows are lower than wet-weather periods. Wash waters are likely to discharge in higher concentrations than would occur if these pollutants were naturally discharged during a storm event. The discharge of high concentration wash water during a time of dry-weather flows is inconsistent with the goal of protecting receiving waters. These discharges are, therefore, considered unauthorized NSWDs. Similar to the 2008 MSGP, firefighting related discharges are not subject to this General Permit.

A major required element of the SWPPP is the identification and measures for elimination of unauthorized NSWDs. Unauthorized NSWDs can contribute a significant pollutant load to receiving waters. Measures to control spills, leakage, and dumping can often be addressed through BMPs. This General Permit's BMP requirements for NSWDs remain essentially unchanged from the previous permit other than the increased frequency of required visual observations from quarterly to monthly. See Section XI.A.1 of this General Permit.

D. Effluent Limitations

1. Technology-Based and Water Quality-Based Effluent Limitations

CWA Section 301(b)(1)(C) requires that discharges from existing facilities must, at a minimum, comply with technology-based effluent limitations based on the technological capability of Dischargers to control pollutants in their discharges. Discharges must also comply with any more stringent water quality-based limitations necessary to meet water quality standards in accordance with CWA Section 301(b)(1)(C). Water quality-based limitations are discussed in Section E of this Fact Sheet titled "Receiving Water Limitations." Both technology-based effluent limitations and water quality-based limitations are implemented through NPDES permits. (CWA sections 301(a) and (b).)

2. Types of Technology-Based Effluent Limitations

All NPDES permits are required to contain technology-based effluent limitations (TBELs). (40 C.F.R. §§122.44(a)(1) and 125.3.) TBELs may consist of effluent limitations guidelines (ELGs) established by U.S. EPA through regulation, or may be developed using best professional judgment on a case-by-case basis.

The CWA sets forth standards for TBELs based on the type of pollutant or the type of facility/source involved. The CWA establishes two levels of pollution control for existing sources. For the first level, existing sources that discharge pollutants directly to receiving waters were initially subject to effluent limitations based on the "best practicable control technology currently available" (BPT). (33 U.S.C. § 1314(b)(1)(B).) BPT applies to all pollutants. For the second level, existing sources that discharge conventional pollutants are subject to effluent limitations based on the "best conventional pollutant control technology" (BCT). (33 U.S.C. §1314(b)(4)(A); see also 40 C.F.R. §401.16 (list of conventional pollutants).) Also for the second level, other existing sources that discharge toxic pollutants or "nonconventional" pollutants ("nonconventional" pollutants are pollutants that are neither "toxic" nor "conventional") are subject to effluent limitations based on "best available technology economically achievable" (BAT). (33 U.S.C. §1311(b)(2)(A); see also 40 C.F.R. §401.15 (list of toxic pollutants).) The factors to be considered in establishing the levels of these control technologies are specified in section 304(b) of the CWA and in U.S. EPA's regulations at 40 C.F.R. §125.3.

When establishing ELGs for an industrial category, U.S. EPA evaluates a wide variety of technical factors to determine BPT, BCT, and BAT. U.S. EPA considers the specific factors of an industry such as pollutant sources, industrial processes, and the size and scale of operations. U.S. EPA evaluates the specific treatment, structural, and operational source control BMPs available to reduce or prevent pollutants in the discharges. The costs of implementing BMPs to address these factors are weighed against their effectiveness and ability to protect water quality. Factors such as industry economic viability, economies of scale, and retrofit costs are also considered.

To date, U.S. EPA has: (1) not promulgated storm water ELGs for most industrial categories, (2) not established NELs within all ELGs that have been promulgated, and (3) exempted certain types of facilities within an industrial category from complying with established ELGs. The feedlot category (40 Code of Federal Regulations part 412) provides an example of several of these points. In that instance, U.S. EPA did not establish numeric effluent limitations but instead: (1) established a narrative effluent limitation requiring retention of all feedlot-related runoff from a 25-year, 24-hour storm, and (2) limited application of the ELG to feedlots with a minimum number of animals. U.S. EPA also recently promulgated ELGs for the "Construction and Development (C&D)" industry, which included, among many other limitations, conditional numeric effluent limitations. Though the NELs in these ELGs were later stayed by U.S. EPA, the ELGs exempted construction sites of less than 30 acres from complying with the established numeric effluent limitations.

40 Code of Federal Regulations, Chapter I, Subchapter N ("Subchapter N"), includes over 40 separate industrial categories where the U.S. EPA has established ELGs for new and existing industrial wastewater discharges to surface waters, discharges to publicly owned treatment works (pre-treatment standards), and storm water discharges to surface waters. Generally, U.S. EPA has focused its efforts on the development of ELGs for larger industries and those industries with the greatest potential to pollute. In total, the 40 categories for which ELGs have been

established (not including construction) represent less than 10 percent of the types of facilities subject to this General Permit. Additionally, most ELGs focus on industrial process wastewater discharges and pre-treatment standards, and only 11 of the 40 categories establish numeric or narrative ELGs for industrial storm water discharges. Those that do include ELGs for industrial storm water discharges generally address storm water discharges that are generated from direct contact with primary pollutant sources at the subject facilities, and not the totality of the industrial storm water discharge from the facility, as the term “storm water discharge associated with industrial activity” for this General Order is defined in the CWA. (40 C.F.R. § 122.26(b)(14).) Where U.S. EPA has not issued effluent limitation guidelines for an industry, the State Water Board is required to establish effluent limitations for NPDES permits on a case-by-case basis based on best professional judgment (BPJ). (33 U.S.C. § 1342(a)(1); 40 C.F.R. § 125.3(c)(2).) In this General Permit, most of the TBELs are based on BPJ decision-making because no ELG applies.

The TBELs in this General Permit represent the BPT (for conventional, toxic, and non-conventional pollutants), BCT (for conventional pollutants), and BAT (for toxic pollutants and non-conventional pollutants) levels of control for the applicable pollutants. If U.S. EPA has not promulgated ELGs for an industry, or if a Discharger is discharging a pollutant not covered by the otherwise applicable ELG, the State Water Board is required to establish effluent limitations in NPDES permit limitations based on best professional judgment. (33 U.S.C. § 1342(a)(1); 40 C.F.R. 125.3(c).) This General Permit includes TBELs established on best professional judgment and limitations based on storm water-specific ELGs listed in Attachment F of this General Permit, where applicable.

3. Authority to Include Non-Numeric Technology-Based Limits in NPDES Permits

TBELs in this General Permit are based on best professional judgment and are non-numeric (“narrative”) technology-based effluent limitations expressed as requirements for implementation of effective BMPs. Federal regulations provide that permits must include BMPs to control or abate the discharge of pollutants when where “[n]umeric effluent limitations are infeasible.” 40 C.F.R. 122.44(k)(3).

Since 1977, courts have recognized that there are circumstances when numeric effluent limitations are infeasible and have held that EPA may issue permits with conditions (e.g., BMPs) designed to reduce the level of effluent discharges to acceptable levels. *Natural Res. Def. Council, Inc. v. Costle*, 568 F.2d 1369 (D.C.Cir.1977).

U.S. EPA has also interpreted the CWA to allow BMPs to take the place of numeric effluent limitations under certain circumstances. 40 C.F.R. §122.44(k), titled “Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs ...),” provides that permits may include BMPs to control or abate the discharge of pollutants when: (1) “[a]uthorized under section 402(p) of the CWA for the control of stormwater discharges”; or (2) “[n]umeric effluent limitations are infeasible.” 40 C.F.R. § 122.44(k).

In 2006, The U.S. Court of Appeals for the Sixth Circuit held that the CWA does not require U.S. EPA to set numeric limits where such limits are infeasible. (*Citizens Coal Council v. United States Environmental Protection Agency*, 447 F.3d 879, 895-96 (6th Cir. 2006)). The Citizens Coal court cited to the statement in *Waterkeeper Alliance, Inc. v. EPA*, 399 F.3d 486, 502 (2d Cir. 2005) that “site-specific BMPs are effluent limitations under the CWA” in concluding that “the EPA’s inclusion of numeric and non-numeric limitations in the guideline for the coal remaining subcategory was a reasonable exercise of its authority under the CWA.” (447 F.3d at 896.) Additionally, the Citizen’s Coal court cited to *Natural Res. Def. Council, Inc. v. EPA*, 673 F.2d 400, 403 (D.C.Cir.1982) noting that “section 502(11) [of the CWA] defines ‘effluent limitation’ as ‘any restriction’ on the amounts of pollutants discharged, not just a numerical restriction.” NPDES permit writers have substantial discretion to impose non-quantitative permit requirements pursuant to section 402(a)(1), especially when the use of numeric limits is infeasible. (*NRDC v. EPA*, 822 F.2d 104, 122-24 (D.C. Cir. 1987); 40 C.F.R. 122.44(k)(3).)

4. Decision to Include Non-Numeric Technology-Based Effluent Limits in This General Permit

It is infeasible for the State Water Board to develop numeric effluent limitations using the best professional judgment approach due to lack of sufficient information. Previous versions of this General Permit required Dischargers to sample their industrial storm water discharges and report the results to the Regional Water Boards. Dischargers were not required to submit this data online into a statewide database; as a result, much of this data is not available for analysis. Moreover, much of the data that are available for analysis are not of sufficient quality to make conclusions or perform basic statistical tests.

The Blue Ribbon Panel of Experts, State Water Board staff, and many stakeholders evaluated the available storm water data set and concluded that the information provides limited value due to the limited pool of industrial facilities submitting data, poor overall data quality, and extreme variance within the dataset, as described below.

The poor quality of the existing data set is attributable a number of factors. For example, the previous permits have required Dischargers to sample during the first hour of discharge from two storm events a year. This sampling schedule was designed to catch what was considered to represent the higher end of storm water discharge concentrations for most parameters. The results from this type of sampling were thought to be an indicator of whether or not additional BMPs would be necessary. The sampling schedule was not designed, however, to estimate pollutant discharge loading, or to characterize the impact of the discharge on the receiving water. Doing so would normally require the use of more advanced sampling protocols such as flow meters, continuous automatic sampling devices, certified/trained sampling personnel, and other facility-specific considerations.

Furthermore, there is currently no data which details the relationship between the BMPs implemented at each facility and the facility’s sampling results. The SWPPPs required by the previous permits were not submitted to the Water Boards, but were

kept onsite by Dischargers. Due to the limited availability of quality sampling data and "level of effort" information contained in SWPPPs, the State Water Board is unable to exercise best professional judgment to make the connection between effluent quality (sampling results) and the level of effort, costs, and performance of the various technologies that is needed in order to express the TBELs in this General Permit numerically, as NELs.

Some stakeholders have suggested that separating the data sets by industry type would lead to more reliable data with which to develop NELs. Advocates of this approach suggest that the variability of the data may be caused in part by the mixing of data from different industrial categories. The State Water Board believes that the variation is primarily due to storm intensity, duration, time of year, soil saturation or some other factors. It is necessary to collect information related to those factors and BMPs implemented in order to evaluate the variability attributable to those factors. There is currently too large of an information gap to begin the process of developing NELs for all industrial sectors not currently subject to ELGs.

The State Water Board has proposed NELs in past drafts of this General Permit. In comments, many stakeholders have highlighted the difficulty of developing statewide NELs that are applicable to all industry sectors, or even NELs that cover any specific industry sectors. For example, stakeholders have commented that:

- a. Background/ambient conditions in some hydrogeologic zones may contribute pollutant loadings that would significantly contribute to, if not exceed, the NEL values;
- b. Some advanced treatment technologies have flow/volume limitations as well as economy of scale issues for smaller facilities;
- c. Treatment technologies that require that sheet flows be captured and conveyed via discrete channels or basins may not only result in significant retrofit costs, but may conflict with local ordinances that prohibit such practices, as they can cause damage or erosion to down gradient property owners, or cause other environmental problems;
- d. There is insufficient regulatory guidance and procedures to allow permit writers to properly specify monitoring frequency and sampling protocols (e.g., instantaneous maximum, 1-day average, 3-day average, etc.), and for Dischargers to obtain representative samples to compare to NELs for the purpose of strict compliance; and,
- e. NELs must be developed with consideration of what is economically achievable for each industrial sector. These stakeholders point out that the U.S. EPA goes to great lengths evaluating the various BMP technologies available for a particular pollutant, the costs and efficiency of each BMP, and the applicability of the BMPs to the industry as a whole or to a limited number of industrial sites based upon the size of the facility, the quantity of material, and other considerations.

The State Water Board does not have the information (including monitoring data, industry specific information, BMP performance analyses, water quality information, monitoring guidelines, and information on costs and overall effectiveness of control technologies) necessary to promulgate NELs at the time of adoption of this General Permit. Therefore, it is infeasible to include NELs in this statewide General Permit.

Many of the new requirements in this General Permit have been designed to address the shortcomings of previous permits and the existing storm water data set. Under this General Permit, sampling results must be certified and submitted into SMARTS by Dischargers, along with SWPPPs which outline the technologies and BMPs used to control pollutants at each facility. The ERA process will also collect information on costs and the engineering aspects of the various control technologies employed by each facility. Previous permit versions did not have a mechanism for receiving this site specific information electronically, and only a small percentage of Dischargers submitted their Annual Reports via SMARTS. This General Permit will make this information more accessible, allowing the Water Boards to evaluate the relationship between BMPs and the ability of facilities to meet the NALs set forth in this General Permit. Finally, the new Qualified Industrial Storm Water Practitioner (QISP) training requirements of this General Permit have been designed in part to improve the quality of the data submitted.

5. Narrative Technology-Based Effluent Limitations (TBELs) and Best Management Practices (BMPs)

The primary TBEL in this General Permit requires Dischargers to “implement BMPs that comply with the BAT/BCT requirements of this General Permit to reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.” (Section V.A of this General Permit). This TBEL is a restatement of the BAT/BCT standard, as articulated by U.S. EPA in the 2008 MSGP and accompanying Fact Sheet. In order to comply with this TBEL, Dischargers must implement BMPs that meet or exceed the BAT/BCT technology-based standard. The requirement to “reduce or prevent” is equivalent to the requirement in the federal regulations that BMPs be used in lieu of NELs to “control or abate” the discharge of pollutants. (40 C.F.R. § 122.44(k).)

BMPs are defined as the “scheduling of activities, prohibitions of practices, maintenance procedures, and other management practices to reduce or prevent the discharge of pollutants... includ[ing] treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.” (40 C.F.R. § 122.2.)

This General Permit (Sections X.H.1 and X.H.2) requires all Dischargers to implement minimum BMPs, as well as any advanced BMPs that are necessary to adequately reduce or prevent pollutants in discharges consistent with the TBELs. The minimum BMPs specified in this General Permit represent common practices that can be implemented by most facilities. This General Permit generally does not mandate the specific mode of design, installation or implementation for the minimum BMPs at a Discharger’s facility. It is up to the Discharger, in the first instance, to

determine what must be done to meet the applicable effluent limits. For example, Section X.H.1.a.vi of this General Permit requires Dischargers to contain all stored non-solid industrial materials that can be transported or dispersed via wind or contact with storm water. How this is achieved will vary by facility: for some facilities, all activities may be moved indoors, while for others this will not be feasible. However, even for the latter, many activities may be moved indoors, others may be contained using tarps or a containment system, while still other activities may be limited to times when exposure to precipitation is not likely. Each of these control measures is acceptable and appropriate depending upon the facility-specific circumstances.

BMPs can be actions (including processes, procedures, schedules of activities, prohibitions on practices and other management practices), or structural or installed devices to reduce or prevent water pollution. (40 C.F.R. § 122.2.) They can be just about anything that is effective at preventing pollutants from entering the environment, and for meeting applicable limits of this General Permit. In this General Permit, Dischargers are required to select, design, install, and implement facility-specific control measures to meet these limits. Many industrial facilities already have such control measures in place for product loss prevention, accident and fire prevention, worker health and safety or to comply with other environmental regulations. Dischargers must tailor the BMPs detailed in this General Permit to their facilities, as well as improve upon them as necessary to meet permit limits. The examples detailed in this Fact Sheet emphasize prevention over treatment. However, sometimes more traditional end-of-pipe treatment may be necessary, particularly where a facility might otherwise cause or contribute to an exceedance of water quality standards.

This General Permit requires Dischargers to implement BMPs “to the extent feasible.” Consistent with the control level requirements of the CWA, for the purposes of this General Permit, the requirement to implement BMPs “to the extent feasible” means to reduce and/or prevent discharges of pollutants using BMPs that represent BAT and BPT in light of best industry practice.⁴ In other words, Dischargers are required to select, design, install and implement BMPs that reduce or prevent discharges of pollutants in their storm water discharge in a manner that reflects best industry practice considering their technological availability and economic practicability and achievability.

To determine technological availability and economic practicability and achievability, Dischargers need to consider what control measures are considered “best” for their industry, and then select and design control measures for their site that are viable in terms of cost and technology. The State Water Board believes that for many facilities minimization of pollutants in storm water discharges can be achieved without using highly engineered, complex treatment systems. The BMPs included in

⁴ Because toxic and nonconventional pollutants are controlled in the first step by BPT and in the second step by BAT, and the second level of control is “increasingly stringent” (EPA v. National Crushed Stone, 449 U.S. 64, 69 (1980)), for simplicity of discussion, the rest of this discussion will focus on BAT. Similarly, because the BAT levels of control in this General Permit are expressed as BMPs and pollution prevention measures, they will also control conventional pollutants. Therefore this discussion will focus on BAT rather than BCT or BPT for conventional pollutants.

this General Permit emphasize effective “low-tech” controls, such as regular cleaning of outdoor areas where industrial activities may take place, proper maintenance of equipment, diversion of storm water around areas where pollutants may be picked up, and effective advanced planning and training (e.g., for spill prevention and response).

E. Receiving Water Limitations and Water Quality Standards

Pursuant to CWA section 301(b)(1)(C) and Water Code section 13377, this General Permit requires compliance with receiving water limitations based on water quality standards. The primary receiving water limitation requires that industrial storm water discharges not cause or contribute to an exceedance of applicable water quality standards. Implementation of the BMPs as required by the technology-based effluent limitation in Section V of this General Permit will typically result in compliance with the receiving water limitations. The discussion of BMPs in this General Permit generally focuses on requiring implementation of BMPs to the extent necessary to achieve compliance with the technology-based effluent limitations, because the technology-based limitations apply similarly to all facilities. In addition, however, this General Permit also makes it clear that, if any individual facility's storm water discharge causes or contributes to an exceedance of a water quality standard, that Discharger must implement additional BMPs or other control measures that are tailored to that facility in order to attain compliance with the receiving water limitation. A Discharger that is notified by a Regional Water Board or who determines the discharge is causing or contributing to an exceedance of a water quality standard must comply with the Water Quality Based Corrective Actions found in Section XX.B of this General Permit.

Water Quality Based Corrective Actions are different from the Level 1 and Level 2 ERAs that result from effluent-based monitoring. It is possible for a Discharger to be engaged in Level 1 or Level 2 ERAs for one or more pollutants and simultaneously be required to perform Water Quality Based Corrective Actions for one or more other pollutants.

Failure to comply with these additional Water Quality Based Corrective Action requirements is a violation of this General Permit. If additional operational source control measures do not adequately reduce the pollutants, Dischargers must implement additional measures such as the construction of treatment systems and/or overhead coverage. Overhead coverage is any structure or temporary shelter that prevents the vertical contact of precipitation with industrial materials or activities. If the Regional Water Board determines that the Discharger's selected BMPs are inadequate, the Regional Water Board may require implementation of additional BMPs and/or may take enforcement against Dischargers for failure to comply with this General Permit.

F. Total Maximum Daily Loads (TMDLs)

TMDLs are regulatory tools that provide the maximum amount of a pollutant from potential source in the watershed that a water body can receive while attaining water quality standards. A TMDL is defined as the sum of the allowable loads of a single pollutant from all contributing point sources (the waste load allocations) and non-point sources (load allocations), plus the contribution from background sources. (40 C.F.R. § 130.2, subd. (i).) Discharges covered by this General Permit are considered to be point

source discharges, and therefore must comply with effluent limitations that are “consistent with the assumptions and requirements of any available waste load allocation for the discharge prepared by the State and approved by EPA pursuant to 40 Code of Federal Regulations section 130.7.” (40 C.F.R. § 122.44, subd. (d)(1)(vii).) In addition, Water Code section 13263, subdivision (a), requires that waste discharge requirements implement relevant water quality control plans. Many TMDLs in existing water quality control plans include both waste load allocations and implementation requirements. Attachment E of this General Permit lists the watersheds with U.S. EPA-approved and U.S. EPA-established TMDLs that include TMDL requirements for Dischargers covered by this General Permit.

NPDES-regulated storm water discharges (which include industrial storm water) must be addressed by waste load allocations in TMDLs. (40 C.F.R. § 130.2(h).) NPDES permits must contain effluent limits and conditions consistent with the requirements and assumptions of the waste load allocations in TMDLs. (40 C.F.R. § 122.44(d)(1)(vii)(B).) To date, the relevant waste load allocations assigned to industrial storm water discharges are not directly translatable to effluent limitations. Many of the TMDLs lack sufficient facility specific information, discharge characterization data, implementation requirements, and compliance monitoring requirements. Accordingly, an analysis of each TMDL applicable to industrial storm water discharges must to be performed to determine if it is appropriate to translate the waste load allocation into a numeric effluent limit, or if the effluent limit is to be expressed narratively using a BMP approach. U.S. EPA recognizes that because storm water discharges are highly variable in frequency and duration and are not easily characterized, it is often not feasible or appropriate to establish numeric limits. Variability and the lack of data available make it difficult to determine with precision or certainty actual and projected loadings for individual Dischargers or groups of Dischargers.

Regardless of whether the effluent limit is to be numeric or narrative, the existing waste load allocations must be carefully analyzed, and in many cases translated, to determine the appropriate effluent limitations. Issues of interpretation exist with all of the waste load allocations applicable to Dischargers, and these issues vary based on the TMDL. Below is an example of one of the simpler issues:

FIGURE 1: Example Waste Load Allocations Proposed Translation: Ballona Creek Estuary Toxic Pollutants

Metals per Acre Waste Load Allocations for Individual General Construction or Industrial Storm Water Permittees (grams/year/acre)				
Cadmium	Copper	Lead	Silver	Zinc
0.1	3	4	0.1	13
Metals per Acre Waste Load Allocations for Individual General Construction or Industrial Storm Water Permittees (milligrams/year/acre)				
Chlordane	DDTs	Total Polychlorinated biphenyl (PCBs)	Total Polycyclic aromatic hydrocarbons (PAHs)	
0.04	0.14	2	350	

In order for the above waste load allocations to effectively be implemented as effluent limits under the General Permit, the Water Boards must (1) identify which discharges the waste load allocations apply to, (2) identify the acreages of the individual facilities, (3) convert the waste load allocations from grams/year/acre (or milligrams/year/acre) to grams/year (or milligrams/year) based on the acreage at each identified facility, (4) assign the effluent limits to the identified Dischargers, (5) determine appropriate monitoring to assess compliance with the effluent limits, and (6) develop a tracking mechanism for each identified facility and their individual effluent limits. A similar stepwise process is necessary for each TMDL with waste load allocations assigned to industrial storm water discharges. For TMDLs where effluent limits will be expressed as BMPs, analysis must be performed to determine the appropriate BMPs and the corresponding effectiveness to comply with the assigned waste load allocations.

Some waste load allocations are already expressed as concentration based numbers. It may appear simple to incorporate these values into this General Permit as effluent limits, but the questions still remain regarding how to determine compliance. The monitoring requirements in this General Permit are not designed to measure compliance with a numeric effluent limit or to measure the effect of a discharge on a receiving water body. (See the discussion on monitoring requirements in Fact Sheet Section II.J.) This General Permit requires sampling of four (4) storm events a year, with certain limitations as to when a discharge may be sampled. This method of monitoring may not appropriately serve as TMDL compliance sampling since grab samples are only representative of the particular moment in time when the sample was taken. Since storm water is highly variable, four grab samples per year may not provide sufficient confidence that the effluent limit is being met. An alternative monitoring scheme may be necessary to determine the facility's impact on the receiving water and to determine compliance with any assigned effluent limits. Questions concerning whether sampling results should be grab samples, composite samples, flow-weighted averaged over all drainage areas, etc. cannot be determined for each concentration-based TMDL without a more thorough analysis.

Additionally, monitoring and assessment requirements must be developed for all of the TMDLs to determine compliance with or progress towards meeting TMDL requirements. The proposed monitoring requirements in this General Permit are not designed to assess pollutant loading or determine compliance with TMDL-specific effluent limits.

Due to the large number and variety of discharges subject to a wide range of TMDLs statewide, to prevent a severe delay in the adoption of this General Permit, TMDL-specific permit requirements for the TMDLs listed in Attachment E will be proposed by the Regional Water Boards. Since the waste load allocations and/or implementation requirements apply to multiple discharges in the region(s) the TMDL were developed, the development of TMDL-specific permit requirements is best coordinated at the Regional Water Board level. The development of TMDL-specific permit requirements is subject to notice and a public comment period prior to incorporation into this General Permit.

Regional Water Board staff, with the assistance of State Water Board staff, will develop and submit the proposed TMDL-specific permit requirements for each of the TMDLs listed in Attachment E by July 1, 2016.⁵ After conducting a 30-day public comment period, the Regional Water Boards will propose TMDL-specific permit requirements to the State Water Board for adoption into this General Permit. The Regional Water Boards may also include TMDL-specific monitoring requirements for inclusion in this General Permit, or may issue Regional Water Board orders pursuant to Water Code section 13383 requiring TMDL-specific monitoring. The Regional Water Boards or their Executive Officers may complete these tasks, and the proposed TMDL-specific permit requirements shall have no force or effect until adopted, with or without modification, by the State Water Board. Unless directed to do so by the Regional Water Board, Dischargers are not required to take any additional actions to comply with the TMDLs listed in Attachment E until the State Water Board reopens this General Permit and includes TMDL-specific permit requirements. This approach is consistent with the 2008 MSGP. TMDL-specific permit requirements are not limited by the BAT/BCT technology-based standards.

The Regional Water Boards will submit to the State Water Board the following information for each of the TMDLs listed in Attachment E:

- Proposed TMDL-specific permit requirements, including any applicable effluent limitations, implementation timelines, additional monitoring requirements, reporting requirements, an explanation of how an exceedance of an effluent limitation or a violation of the TMDL will be determined, and required deliverables consistent with the TMDL(s);
- An explanation of how the proposed TMDL-specific permit requirements, timelines, and deliverables are consistent with the assumptions and requirements of applicable waste load allocation(s) to implement the TMDL(s);
- Where a BMP-based approach is proposed, an explanation of how the proposed BMPs will be sufficient to implement applicable waste load allocations; and
- Where concentration-based monitoring is required, an explanation of how the required monitoring, reporting and calculation methodology for an exceedance of an effluent limitation or a violation of the TMDL(s) will be sufficient to demonstrate compliance with the TMDL(s).

Upon receipt of the information described above, the State Water Board will conduct a public comment period and reopen this General Permit to populate Attachment E, the Fact Sheet, and other provisions as necessary in order to incorporate these TMDL-specific permit requirements into this General Permit. Attachment E may also be reopened during the term of this General Permit to add additional TMDLs and corresponding implementation requirements.

This General Permit (Section X.G.2.a.ix) requires a Discharger to identify any additional industrial parameters that may be discharged to a waterbody with a 303(d) impairment identified in Appendix 3 as likely to be associated with industrial storm water.

⁵ Due to the workload associated with the implementation of this General Permit (e.g., training program development, NEC outreach, electronic enrollment and reporting via SMARTS) it is believed that two years is necessary for Staff to complete a comprehensive analysis and stakeholder process for TMDLs applicable to Dischargers under this General Permit.

Dischargers may need to implement additional monitoring for any applicable parameters (Section XI.B.6.e). Appendix 3 of this General Permit includes the water bodies with 303(d) impairments or TMDLs for pollutants that are likely to be associated with industrial storm water in black font, and those that are not likely to be associated with industrial storm water in red font. This determination is based on the pollutant or pollutants that are causing each impairment, and the State Water Board's general experience regarding the types of pollutants that are typically found in industrial storm water discharges. The list of waterbodies is from the State Water Boards statewide 2010 Integrated CWA Section 303(d) List / Section 305(b) Report.

Some of the water bodies with 303(d) impairments or TMDLs listed in Appendix 3 of this General Permit are not applicable to Dischargers covered under this General Permit. Appendix 3 indicates these water bodies Dischargers are not required to include in their pollutant source assessment (unless directed to do so by the Regional Water Board).

New Dischargers (as defined in Attachment C) applying for NOI coverage under this General Permit that will be discharging to an impaired water body with a 303(d) listed impairment are ineligible for coverage unless the Discharger submits data and/or information, prepared by a QISP, demonstrating that the facility will not cause or contribute to the impairment. Section VII.B of this General Permit describes the three different options New Dischargers have for making this determination. This General Permit requires a QISP to assist the New Discharger with this determination because individuals making this determination will need expertise in industrial storm water pollutant sources, BMPs and a thorough understanding of complying with U.S. EPA's storm water regulations and this General Permit's requirements. Not requiring New Dischargers to have a QISP assist in this demonstration would possibly lead to costly retrofits or closure of a new facility that has not demonstrated that the facility will not cause or contribute to the impairment.

G. Discharges Subject to the California Ocean Plan

1. Discharges to Ocean Waters

On October 16, 2012 the State Water Board amended the California Ocean Plan (California Ocean Plan) to require industrial storm water Dischargers with outfalls discharging to ocean waters to comply with the California Ocean Plan's model monitoring provisions. The amended California Ocean Plan requires industrial storm water dischargers with outfalls discharging to ocean waters to comply with the California Ocean Plan's model monitoring provisions. These provisions require Dischargers to: (a) monitor runoff for specific parameters at all outfalls from two storm events per year, and collect at least one representative receiving water sample per year, (b) conduct specified toxicity monitoring at certain types of outfalls at a minimum of once per year, and (c) conduct marine sediment monitoring for toxicity under specific circumstances (California Ocean Plan, Appendix III). The California Ocean Plan provides conditions under which some of the above monitoring provisions may be waived by the Water Boards.

This General Permit requires dischargers with outfalls that discharge to ocean waters to comply with the California Ocean Plan's model monitoring provisions and

any additional monitoring requirements established pursuant to Water Code section 13383. Dischargers who have not developed and implemented a monitoring program in compliance with the California Ocean Plan's model monitoring provisions by July 1, 2015 or seven (7) days prior to commencing operations, whichever is later, are ineligible to obtain coverage under this General Permit.

2. Areas of Special Biological Significance (ASBS) Exception

The State Water Board adopted the California Ocean Plan (California Ocean Plan) in 1972, and has subsequently amended the Plan. The California Ocean Plan prohibits the discharge of waste to designated ASBS. ASBS are ocean areas designated by the State Water Board as requiring special protection through the maintenance of natural water quality. The California Ocean Plan states that the State Water Board may grant an exception to California Ocean Plan provisions where the State Water Board determines that the exception will not compromise protection of ocean waters for beneficial uses and the public interest will be served.

On March 20, 2012, the State Water Board adopted Resolution 2012-0012 (ASBS Exception), which grants an exception to the California Ocean Plan prohibition on discharges to ASBS for a limited number of industrial storm water Discharger applicants. The ASBS Exception contains "Special Protections" to maintain natural water quality and protect the beneficial uses of the ASBS. In order to legally discharge into an ASBS, these Dischargers must comply with the terms of the ASBS Exception and obtain coverage under this General Permit. This General Permit incorporates the terms of the ASBS Exception and includes the applicable monitoring requirements for all Dischargers discharging to an ASBS under the ASBS Exception.

H. Training Qualifications

This General Permit and the previous permit both require Dischargers to ensure that personnel responsible for permit compliance have an acceptable level of knowledge. Stakeholders have observed that the previous permit did not adequately specify how to comply with various elements of the permit, such as selecting discharge locations representative of the facility storm water discharge and evaluating potential pollutant sources, nor did it provide a clearly outlined Discharger training program. Guidance that is available from outside sources can be complicated to understand or costly to obtain, which can result in many Dischargers developing and implementing deficient SWPPPs and conducting inadequate monitoring activities. Some Dischargers under the previous permit had the resources to hire professional environmental staff or environmental consultants to assist in compliance. Even in those cases, however, there was little certainty that Dischargers received training regarding implementation of the various BMPs being implemented and required monitoring activities under the previous permit. Through this General Permit, the State Water Board seeks to improve compliance and monitoring data quality, and expand each Discharger's understanding of this General Permit's requirements.

This General Permit establishes the Qualified Industrial Storm Water Practitioner (QISP) role. A QISP is someone who has completed a State Water Board sponsored or

approved QISP training course and has registered in SMARTS. A QISP is required to implement certain General Permit requirements at the facility once it has entered Level 1 status in the ERA process as described in Section XII of this General Permit. In some instances it may be advisable for a facility employee to take the training, or for a facility to hire a QISP prior to entering Level 1 status as the training will contain information on the new permit requirements and how to perform certain tasks such as selecting discharge locations representative of the facility storm water discharge, evaluating potential pollutant sources, and identifying inadequate SWPPP elements.

Some industry stakeholders have claimed that their staff is already adequately trained. These employees may continue to perform the basic permit functions (e.g. prepare SWPPPs, perform monitoring requirements, and prepare Annual Reports) without receiving any additional training if the facility's sampling and analysis results do not exceed the NALs. This requirement is structured in a manner to reduce the costs of compliance for facilities that may not negatively impact receiving water quality.

California licensed professional civil, industrial, chemical, and mechanical engineers and geologists have licenses that have professional overlap with the topics of this General Permit. The California Department of Consumer Affairs, Board for Professional Engineers, Land Surveyors and Geologists (CBPELSG) provides the licensure and regulation of professional civil, industrial, chemical, and mechanical engineers and professional geologists in California. The State Water Board is developing a specialized self-guided State Water Board-sponsored registration and training program specifically for these CPBELSG licensed engineers and geologists in good standing with CBPELSG. The CBPELSG has staff and resources dedicated to investigate and take appropriate enforcement actions in instances where a licensed professional engineer or geologist is alleged to be noncompliant with CBPELSG's laws and regulations. Actions that result in noncompliance with this General Permit may constitute a potential violation of the CBPELSG requirements and may subject a licensee to investigation by the CBPELSG.

A QISP may represent one or more facilities but must be able to perform the functions required by this General Permit at all times. It is advisable that this individual be limited to a specific geographic region due to the difficulty of performing the needed tasks before, during, and after qualifying storm events may be difficult or impossible if extensive travel is required. Dischargers are required to ensure that the designated QISP has completed the appropriate QISP training course.

This General Permit contains a mechanism that allows for the Water Boards' Executive Director or Executive Officer to rescind the registration of any QISPs who are found to be inadequately performing their duties as a QISP will no longer be able to do so. A QISP may ask the State Water Board to review any decision to revoke his or her QISP registration. Table 1 of this Fact Sheet below describes the different roles that the QISP and California licensed professional engineers have in this General Permit.

TABLE 1: Role-Specific Permit Requirements

Qualifications	Task
QISP	Assist New Dischargers determine coverage eligibility for Discharges to an impaired water body, Level 1 ERA Evaluation and report, Level 2 ERA Action Plan, and Technical Report, and the Level 2 ERA extension
California licensed professional engineer	Inactive Mining Operation Certification, SWPPPs for inactive mining, and annual re-certification of Inactive Mining Operation Certification, NONA Technical Reports, and Subchapter N calculations

I. Storm Water Pollution Prevention Plan (SWPPP)

1. General

This General Permit requires that all Dischargers develop, implement, and retain onsite a site-specific SWPPP. The SWPPP requirements generally follow U.S. EPA's five-phase approach to developing SWPPPs, which has been adapted to reflect the requirements of this General Permit in Figure 2 of this Fact Sheet. This approach provides the flexibility necessary to establish appropriate BMPs for different industrial activities and pollutant sources. This General Permit requires a Discharger to include in its SWPPP (Section X of this General Permit) a site map, authorized NSWDs at the facility, and an identification and assessment of potential pollutant sources resulting from exposure of industrial activities to storm water.

This General Permit requires that Dischargers clearly describe the BMPs that are being implemented in the SWPPP. In addition to providing descriptions, Dischargers must also describe who is responsible for the BMPs, where the BMPs will be installed, how often and when the BMPs will be implemented, and identify any pollutants of concern. Table 2 of this Fact Sheet provides an example of how a Discharger could assess potential pollution sources and provide a corresponding BMPs summary.

This General Permit requires that Dischargers select an appropriate facility inspection frequency beyond the required monthly inspections if necessary, and to determine if SWPPP revisions are necessary to address any physical or operational changes at the facility or make changes to the existing BMPs (Section X.H.4.a.vii and Section XI.A.4 of this General Permit). Facilities that are subject to multi-phased physical expansion or significant seasonal operational changes may require more frequent SWPPP updates and facility inspections. Facilities with very stable operations may require fewer SWPPP updates and facility inspections.

Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of this General Permit. Failure to maintain the SWPPP on-site and have it available for inspection is also a violation of this General Permit.

Dischargers are also required to submit their SWPPPs and any SWPPP revisions via SMARTS; accordingly, BMP revisions made in response to observed compliance problems will be included in the revised SWPPP electronically submitted via SMARTS. Not all SWPPP revisions are significant and it is up to the Dischargers to distinguish between revisions that are significant and those that are not significant. If no changes are made at all to the SWPPP, the Discharger is not required to resubmit the SWPPP on any specific frequency.

- **Significant SWPPP Revisions:** Dischargers are required to certify and submit via SMARTS their SWPPP within 30 days of the significant revision(s). While it is not easy to draw a line generally between revisions that are significant and those that are not significant, Dischargers are not required to certify and submit via SMARTS any SWPPP revisions that are comprised of only typographical fixes or minor clarifications.
- **All Other SWPPP Revisions:** Dischargers are required to submit revisions to the SWPPP that are determined to not be significant every three (3) months in the reporting year.

FIGURE 2: Five Phases for Developing and Implementing an Industrial Storm Water Pollution Prevention Plan (SWPPP)

PLANNING AND ORGANIZATION

- *Form Pollution Prevention Team
- *Review other facility plans

ASSESSMENT

- *Develop a site map
- *Identify potential pollutant sources
- *Inventory of materials and chemicals
- *List significant spills and leaks
- *Identify Non-Storm Water Discharges
- *Assess pollutant risk

Best Management Practice (BMP) IDENTIFICATION

- *Identify minimum required BMPs
- *Identify any advanced BMPs

IMPLEMENTATION

- *Train employees for the Pollution Prevention Team
- *Implement BMPs
- *Collect and review records

EVALUATION / MONITORING

- *Conduct annual facility evaluation (Annual Evaluation)
- *Review monitoring information
- *Evaluate BMPs
- *Review and revise SWPPP

TABLE 2: Example - Assessment of Potential Industrial Pollution Sources and Corresponding BMPs Summary

Area	Activity	Pollutant Source	Industrial Pollutant	BMPs
Vehicle and Equipment Fueling	Fueling	Spills and leaks during delivery	Fuel oil	-Use spill and overflow protection
		Spills caused by topping off fuel tanks	Fuel oil	-Train employees on proper fueling, cleanup, and spill response techniques
		Hosing or washing down fuel area	Fuel oil	-Use dry cleanup methods rather than hosing down area -Implement proper spill prevention control program
		Leaking storage tanks	Fuel oil	-Inspect fueling areas regularly to detect problems
		Rainfall running off fueling area, and rainfall running onto and off fueling area	Fuel oil	-Minimize run-on of storm water into the fueling area, cover fueling area

2. Minimum and Advanced BMPs

Section V of this General Permit requires the Discharger to comply with technology-based effluent limitations (TBELs). In this General Permit, TBELs rely on implementation of BMPs for Dischargers to reduce and prevent pollutants in their discharge. The BMP effluent limitations have been integrated into the Section X.H of this General Permit and are divided into two categories – minimum BMPs which are generally non-structural BMPs that all Dischargers must implement to the extent feasible, and advanced BMPs which are generally structural BMPs that must be implemented if the minimum BMPs are inadequate to achieve compliance with the TBELs. Section X of this General Permit includes both substantive control requirements in the form of the BMPs listed in Section X.H, as well as various reporting and recordkeeping requirements. The requirement to implement BMPs “to the extent feasible” allows Dischargers flexibility when implementing BMPs, by not requiring the implementation of BMPs that are not technologically available and economically practicable and achievable in light of best industry practices.

The 2008 MSGP requires Dischargers to comply with 12 non-numeric technology-based effluent limits in Section 2.1.2 of the permit through the implementation of “control measures.” This requirement is an expansion of the general considerations outlined in the MSGP adopted in 2000. The control measures specified by the U.S. EPA in the 2008 MSGP are as follows (in order as listed in the 2008 MSGP):

1. Minimize Exposure
2. Good Housekeeping
3. Maintenance
4. Spill Prevention and Response Procedures
5. Erosion and Sediment Controls
6. Management of Runoff
7. Salt Storage Piles or Piles Containing Salt
8. Sector Specific Non-Numeric Effluent Limits
9. Employee Training
10. Non-Storm Water Discharges (NSWDs)
11. Waste, Garbage and Floatable Debris
12. Dust Generation and Vehicle Tracking of Industrial Materials

This General Permit addresses eleven of the above twelve control measures from the 2008 MSGP Section 2.1.2 Non-Numeric Technology-Based Effluent Limits (BPT/BAT/BCT). Eleven of the control measures are addressed as minimum BMPs that the State Water Board has determined to be most applicable to California’s Dischargers. Two of those eleven control measures (1- Minimize Exposure, 6 – Management of Runoff) are also identified as advanced BMPs (Section X.H.2 of this General Permit). This General Permit is not a sector-specific permit and therefore does not contain limitations to address control measure number 8 (Sector Specific Non-Numeric Effluent Limits).

The non-structural elements of the control measure to minimize exposure are addressed in the minimum BMP Section X.H.1 of this General Permit while structural control elements are addressed in the advanced BMP Section X.H.2 of this General Permit. The on-site diversion elements of the control measure to minimize exposure are addressed as minimum BMPs.

The runoff reduction elements of the control measure to minimize exposure are included as advanced BMPs. Advanced BMPs that are required to be implemented when a Discharger has implemented the minimum BMPs to the extent feasible and they are not adequate to comply with the TBELs. The advanced BMP categories are: (1) exposure minimization BMPs, (2) storm water containment and discharge reduction BMPs, (3) treatment control BMPs, and (4) additional advanced BMPs needed to meet the effluent limitations of this General Permit. Advanced BMPs are generally structural control measures and can include any BMPs that exceed the minimum BMPs. The control measure for Non-Storm Water Discharges (NSWDs) is addressed in both the discharge prohibitions (Section III) and authorized non-storm water discharges (Section IV) of this General Permit and essentially represents a minimum BMP.

This General Permit encourages Dischargers to utilize BMPs that infiltrate or reuse storm water where feasible. The State Water Board expects that these types of BMPs will not be appropriate for all industrial facilities, but recognizes the many possible benefits (e.g. increased aquifer recharge, reduces flooding, improvements to water quality) associated with the infiltration and reuse of storm water. Encouraging the use of storm water infiltration and reuse BMPs is consistent with the statewide approach to managing storm water with lower impact methods.

The BMPs in this General Permit that coincide with the control measures in the 2008 MSGP are as follows (in order as listed in the 2008 MSGP):

a. Minimization of Exposure to Storm Water

Section 2.1.2.1 of the 2008 MSGP requires Dischargers to minimize the exposure of industrial materials and areas of industrial activity to rain, snow, snowmelt, and runoff. The 2008 MSGP mixes both structural and nonstructural BMPs and specifies particular BMPs to consider when minimizing exposure such as grading/berming areas to minimize runoff, locating materials indoors, spill clean up, contain vehicle fluid leaks or drain fluids before storing vehicles on-site, secondary containment of materials, conduct cleaning activities undercover, indoors or in bermed areas, and drain all wash water to a proper collection system.

This General Permit requires the evaluation of BMPs in the potential pollutant source assessment in the SWPPP (Section X.G.2). When the minimum BMPs are not adequate to comply with the TBELs, Dischargers are required to implement advanced BMPs (Section X.H.2.a). These advanced BMPs may include additional exposure minimization BMPs (Section X.H.2.b.1).

b. Good Housekeeping

Section 2.1.2.2 of the 2008 MSGP requires that Dischargers keep all exposed areas that may be a potential source of pollutants clean and orderly. This General Permit (Section X.H.1.a) seeks to define "clean and orderly" by specifying a required set of nine (9) minimum good housekeeping BMPs, which include: observations of outdoor/exposed areas, BMPs for controlling material tracking, BMPs for dust generated from industrial materials or activities, BMPs for rinse/wash water activities, covering stored industrial materials/waste, containing all stored non-solid industrial materials, preventing discharge of rinse/wash waters/industrial materials, prevent non-industrial area discharges from contact with industrial areas of the facility, and prevent authorized NSWDS from non-industrial areas from contact with industrial areas of the facility.

c. Preventative Maintenance

Section 2.1.2.3 of the 2008 MSGP requires that Dischargers regularly inspect, test, maintain, and repair all industrial equipment to prevent leaks, spills and releases of pollutants that may be exposed to storm water discharged to receiving waters. This General Permit (Section X.H.1.b) incorporates this

concept by requiring four (4) nonstructural BMPs which include: identification and inspection of equipment, observations of potential leaks in identified equipment, an equipment maintenance schedule, and equipment maintenance procedures.

d. Spill and Leak Prevention and Response

Section 2.1.2.4 of the 2008 MSGP requires that Dischargers minimize the potential for leaks, spills and other releases that may be exposed to storm water. Dischargers are also required to develop a spill response plan which includes procedures such as labeling of containers that are susceptible to a spill or a leakage, establishing containment measures for such industrial materials, procedures for stopping leaks/spills, and provisions for notification of the appropriate personnel about any occurrence. This General Permit (Section X.H.1.c) requires implementation of four (4) BMPs to address spills. These BMPs include: developing a set of spill response procedures to minimize spills/leaks, develop procedures to minimize the discharge of industrial materials generated through spill/leaks, identifying/describing the equipment needed and where it will be located at the facility, and identify/training appropriate spill response personnel.

e. Erosion and Sediment Controls

Section 2.1.2.5 of the 2008 MSGP requires the use of structural and/or non-structural control measures to stabilize exposed areas and contain runoff. Also required is the use of a flow velocity dissipation device(s) in outfall channels where necessary to reduce erosion and/or settle out pollutants. This General Permit (Section X.H.1.e) requires the implementation of (5) BMPs to prevent erosion and sediment discharges. The erosion and sediment control BMPs include: implementing effective wind erosion controls, providing for effective stabilization of erodible areas prior to a forecasted storm event, site entrance stabilization/prevent material tracking offsite and implement perimeter controls, diversion of run-on and storm water generated from within the facility away from all erodible materials, and ensuring compliance with the design storm standards in Section X.H.6. U.S. EPA has developed online resources for erosion and sediment controls.⁶

f. Management of Runoff

Section 2.1.2.6 of the 2008 MSGP requires the diversion, infiltration, reuse, containment, or otherwise reduction of storm water runoff, to minimize pollutants in discharges. This General Permit (Sections X.H.1.a.viii, X.H.1.d.iv., and

⁶ U.S. EPA. 2008 MSGP. <<http://cfpub.epa.gov/npdes/stormwater/msgp.cfm>> [as of February 4, 2014].
U.S. EPA. National Menu of BMPs. <<http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>>. [as of February 4, 2014].
U.S. EPA. National Management Measures to Control Nonpoint Source Pollution from Urban Areas <<http://water.epa.gov/polwaste/nps/urban/index.cfm>>. [as of February 4, 2014].

X.H.1.e.iv) requires Dischargers to divert run-on from non-industrial sources and manage storm water generated within the facility away from industrial materials and erodible surfaces. Runoff reduction is required as an advanced BMP when minimum BMPs are not adequate to comply with the TBELs. The 2008 MSGP encouraged Dischargers to consult with EPA's internet-based resources relating to runoff management.⁷

g. Salt Storage Piles or Piles Containing Salt

Section 2.1.2.7 of the 2008 MSGP requires salt storage piles/piles containing salt that may be discharged to be enclosed or covered and to use BMPs when the salt is being used. This General Permit does not have a minimum BMP specifically for salt storage, however it does require all stockpiled/stored industrial materials be managed in a way to reduce or prevent industrial storm water discharges of the stored/stockpiled pollutants. The good housekeeping (Section X.H.1.a) and material handling and waste management (Section X.H.1.d) minimum BMPs in this General Permit require that all materials readily mobilized by storm water be covered, the minimization of handling of industrial materials or wastes that can be readily mobilized by contact with storm water during a storm event, and the diversion of run-on from stock piled materials.

h. Sector Specific Non-Numeric Effluent Limits

Section 2.1.2.8 of the 2008 MSGP requires Dischargers to achieve any additional non-numeric limits stipulated in the relevant sector-specific section(s) of Part 8 of the 2008 MSGP. This General Permit is not a sector-specific permit and does not contain sector-specific non-numeric effluent limitations like the 2008 MSGP. While this General Permit does not specify sector-specific BMPs, Dischargers are required to select and implement BMPs for their specific facility to reduce or prevent industrial storm water discharges of pollutants to comply with the technology-based effluent limitations. In addition, sectors with applicable ELGs must comply with those ELGs.

i. Employee Training Program

Section 2.1.2.9 of the 2008 MSGP requires all employees engaged in industrial activities or the handling of industrial materials that may affect storm water to obtain training covering implementation of this General Permit. This General Permit (Section X.D.1 and X.H.1.f) requires a facility to establish a Pollution Prevention Team (team members, collectively) responsible for implementing permit requirements such as the SWPPP, monitoring requirements, or BMPs.

⁷ U.S. EPA. Sector-Specific Industrial Stormwater Fact Sheet Series <www.epa.gov/npdes/stormwater/msgp>. [as of February 4, 2014].

U.S. EPA. National Menu of Stormwater BMPs <www.epa.gov/npdes/stormwater/menuofbmps> [as of February 4, 2014].

U.S. EPA. National Management Measures to Control Nonpoint Source Pollution from Urban Areas (and any similar State or Tribal publications) <www.epa.gov/owow/nps/urbanmm/index.html>. [as of February 4, 2014].

The five (5) minimum training BMPs include: ensuring that all team members are properly trained, preparing the proper training materials and manuals, identifying which individuals need to be trained, providing a training schedule, and maintaining documentation on the training courses and which individuals received the training.

This General Permit also requires a QISP to be assigned to each facility that reaches Level 1 status. One purpose of a QISP is to have an individual available who can provide compliance assistance with these training requirements. The QISP is responsible for training the appropriate team members. Appropriate team members are any team members involved in implementing this General Permit for drainage areas causing NAL exceedances, and any other team members identified by the QISP that need additional training to implement this General Permit.

j. NSWDs

Section 2.1.2.10 of the 2008 MSGP requires that unauthorized NSWDs are eliminated (Part 1.2.3 of the 2008 MSGP lists the NSWDs authorized by the 2008 MSGP). The good housekeeping minimum BMP (Section X.H.1.a.ix of this General Permit) requires that contact between authorized NSWDs and industrial areas of the facility be minimized. This General Permit (Section IV) also includes separate requirements for authorized NSWDs and (Section III) prohibits unauthorized NSWDs.

k. Material Handling and Waste Management

Section 2.1.2.11 of the 2008 MSGP requires that Dischargers ensure waste, garbage, and floatable debris are not discharged into receiving waters. The 2008 MSGP identifies keeping areas clean and intercepting such materials as ways to minimize such discharges. This General Permit (Section X.H.1.d) requires Dischargers to implement six (6) general BMPs that address material handling and waste management. These BMPs include: preventing or minimizing handling of waste or materials during a storm event that could potentially result in a discharge, containing industrial materials susceptible to being dispersed by the wind, covering industrial waste disposal containers when not in use to contain industrial materials, diversion of run-on and storm water generated from within the facility away from all stock piled materials, cleaning and managing spills of such wastes or materials (in accordance with Section X.H.1.e of this General Permit), and conducting observations of outdoor areas and equipment that may come into contact with such materials or waste and become contaminated.

l. Waste, Garbage and Floatable Debris

Section 2.1.2.11 of the 2008 MSGP requires that waste, garbage, and floatable debris are not discharged to receiving waters by keeping exposed areas free of such materials or by intercepting them before they are discharged. Material handling and waste management BMPs are included in Section X.H.1.d of this General Permit. Dischargers are required to: prevent handling of waste materials during a storm event that could result in a discharge, contain waste disposal

containers when not in use, clean and manage spills from waste, and observe outdoor areas and equipment that may come into contact with waste and become contaminated.

m. Dust Generation and Vehicle Tracking of Industrial Materials

Section 2.1.2.12 of the 2008 MSGP requires that generation of dust and off-site tracking of raw, final, or waste materials is minimized. This General Permit does not require minimization of dust generation and vehicle tracking of industrial materials as a minimum BMP directly. Dust generation and vehicle tracking of industrial materials BMPs are included in Section X.H.1.a (“good housekeeping”) of this General Permit where Dischargers must prevent dust generation from industrial materials or activities and contain all stored non-solid industrial materials that can be transported or dispersed via wind or come in contact with storm water, and Section X.H.1.d. (“material handling and waste management”) of this General Permit, which requires Dischargers to contain non-solid industrial materials or wastes that can be dispersed via wind erosion or come into contact with storm water during handling.

n. Quality Assurance and Record Keeping

Section 2.1.2 of the 2008 MSGP does not directly designate record keeping as a control measure. This General Permit (Section X.H.1.g) includes quality assurance and record keeping as a minimum BMP and requires Dischargers to implement three (3) general BMPs. These BMPs include: developing and implementing procedures to ensure that all elements of the SWPPP are implemented, develop a method of tracking and recording the implementation of all BMPs identified in the SWPPP, and a requirement to keep and maintain those records. This ensures that management procedures are designed and permit requirements are implemented by appropriate staff.

o. Implementation of BMPs in the SWPPP

Like the previous permit, this General Permit does not assign Dischargers a schedule to implement BMPs. Instead, this General Permit requires Dischargers to select the appropriate schedule to implement the minimum BMPs. In addition, this General Permit requires Dischargers to identify, as necessary, any BMPs that should be implemented prior to precipitation events. Although Dischargers are required to maintain internal procedures to ensure the BMPs are implemented according to schedule or prior to precipitation events, Dischargers are only required to certify in the Annual Report whether they complied with the BMP implementation requirements.

Dischargers are required to implement an effective suite of BMPs that meet the technology and water-quality based limitations of this General Permit. Based upon Regional Water Board staff inspections, there is significant variation between Dischargers’ interpretations of what BMPs were necessary to comply with the previous permit. This General Permit establishes a new requirement that Dischargers must implement, to the extent feasible, specific minimum BMPs

to reduce or prevent the presence of pollutants in their industrial storm water discharge. In addition, due to the wide variety of facilities conducting numerous and differing industrial activities throughout the state, this General Permit retains the requirement from the previous permit that Dischargers establish and implement additional BMPs beyond the minimum. Implementation of this General Permit's minimum BMPs, together with any necessary advanced BMPs, will result in compliance with the effluent limitations of this General Permit (Section V.A). All Dischargers must evaluate their facilities and determine the best practices within their industry considering technological availability and economic practicability and achievability to implement these minimum BMPs and any advanced BMPs.

The State Water Board has selected minimum BMPs that are generally applicable at all facilities. The minimum BMPs are consistent with the types of BMPs normally found in properly developed SWPPPs and, in most cases, should represent a significant portion of the effort required for a Discharger to achieve compliance. Due to the diverse industries covered by this General Permit, the development of a more comprehensive list of minimum BMPs is not currently feasible. The selection, applicability, and effectiveness of a given BMP is often related to industrial activity type and to facility-specific facts and circumstances. Advanced BMPs must be selected and implemented by Dischargers, based on the type of industry and facility-specific conditions, to the extent necessary to comply with the technology-based effluent limitation requirements of this General Permit.

Failure to implement all of the minimum BMPs to the extent feasible is a violation of this General Permit. (Section X.H.1.) Dischargers must justify any determination that it is infeasible to implement a minimum BMP in the SWPPP (Section X.H.4.b). Failure to implement advanced BMPs necessary to achieve compliance with either the technology or water quality standards requirements in this General Permit is a violation of this General Permit.

p. Temporary Suspension of Industrial Activities

The exception for inactive and unstaffed sites in section 6.2.1.3 of the 2008 MSGP does not require a Discharger with a facility that is inactive and unstaffed with no industrial materials or activities exposed to storm water (in accordance with the substantive requirements in 40 Code of Federal Regulations section 122.26(g)) to complete benchmark monitoring. The Discharger is required to sign and certify a statement in the SWPPP verifying that the site is inactive and unstaffed. If circumstances change and industrial materials or activities become exposed to storm water or the facility becomes active and/or staffed, this exception no longer applies and the Discharger is required to begin complying immediately with the applicable benchmark monitoring requirements under part 6.2 of the 2008 MSGP.

This General Permit allows Dischargers to temporarily suspend monitoring at facilities where industrial activities have been suspended in accordance with Section X.H.3. This is only intended for Dischargers with facilities where it is

infeasible to comply with this General Permit's monitoring while activities are suspended (e.g. remote, unstaffed, or inaccessible facilities during the time of such a suspension). Dischargers are required to update the facility's SWPPP with the BMPs being used to stabilize the site and submit the suspension dates and a justification for the suspension of monitoring via SMARTS.

3. Design Storm Standards for Treatment Control BMPs

It is the State Water Board's intent to minimize the regulatory uncertainty and costs concerning treatment control BMPs in order to encourage the implementation of treatment control BMPs when appropriate. Section X.H.6 of this General Permit specifies a design storm standard for use when treatment controls BMPs are installed. There is both a volume-based and flow-based design storm standard in this General Permit. Both are based on the 85th percentile 24-hour storm event. Without a design storm standard, Dischargers have installed treatment controls using a wide variety of designs that were sometimes either unnecessarily stringent/expensive, or deficient in complying with the requirements of the relevant permit. Some Dischargers have been hesitant to consider treatment options because of the uncertainty concerning acceptable treatment design. The design storm standards are generally expected to:

- Be consistent with the effluent limitations of this General Permit;
- Be protective of water quality;
- Be achievable for most pollutants and their associated treatment technologies; and,
- Reduce the costs associated with treating industrial storm water discharges beyond the levels necessary to achieve compliance with this General Permit.

In lieu of complying with the design storm standards for treatment control BMPs, Dischargers may certify and submit a Level 2 ERA Technical Report, including an Industrial Activity BMPs Demonstration (Section XII.D.2.a of this General Permit). The Level 2 ERA Technical Report requirement is based upon NAL exceedances. Under this option, a Discharger with Level 2 status must either implement BMPs to eliminate future NAL exceedances, or justify what BMPs must be implemented to comply with this General Permit even if the BMPs will not eliminate future exceedances of NALs. Dischargers who implement treatment control BMPs that vary from the design storm standards in Section X.H.6 must include an analysis showing that their treatment control BMPs comply with this General Permit's effluent limitations in the Industrial Activity BMP Demonstration.

This General Permit does not require Dischargers to retrofit existing treatment controls that do not meet the design storm standard, unless the Discharger determines that the existing treatment controls are not adequate to comply with this General Permit. In addition, once TMDL-specific implementation requirements are added to this General Permit, those Dischargers subject to TMDLs may need to add

new or retrofitted treatment control BMPs to meet the TMDL implementation requirements.

To arrive at these design storm standards, the State Water Board has relied heavily on previous Water Board decisions concerning treatment efficacy for municipalities, published documents, stakeholder comments, and reasonableness. In 2000, the State Water Board issued State Water Board Order WQ 2000-11, which upheld Los Angeles Regional Water Board's permit requirements which mandated that all new development and redevelopment exceeding certain size criteria design treatment BMPs based on a specific storm volume: the 85th percentile 24-hour storm event. This design storm standard was based on research demonstrating that the standard represents the maximized treatment volume cut-off at the point of diminishing returns for rainfall/runoff frequency.⁸ On the basis of this equation, the maximized runoff volume for 85 percent treatment of annual runoff volumes in California can range from 0.08 to 0.86 inch depending on the imperviousness of the watershed area and the mean amount of rainfall. This design storm standard is referred to as the Standard Urban Storm Water Mitigation Plan's volumetric criterion and there are multiple acceptable methods of calculating this volume. For more information, see the California Stormwater Best Management Practices Handbook.⁹

The San Diego Regional Water Board first established both volumetric and flow-based design storm criteria for NPDES MS4 permits. It is generally accepted by civil engineers doing hydrology work to use twice the peak hourly flow of a specific storm event to use as the basis for flow-based design of BMPs. This General Permit therefore establishes the flow-based design storm standard to be twice the peak hourly flow of the 85th percentile 24-hour storm event.

The primary objective of specifying a design storm standard is to properly size BMPs to, at a minimum, effectively treat the first flush of run-off from all storm events. The economic impacts of treating all storm water from a facility versus the minimal environmental benefit of complete treatment justify the design storm approach. It is unrealistic to require each facility to do a cost benefit analysis of their treatment structures. To simplify the requirements for design, the State Water Board reviewed research from the City of Portland¹⁰ and the City of San Jose¹¹ to determine the volume of each rain event compared to the amount of events that occur for that volume. The results of their findings show an inflection point that is typically found at approximately the 80 to 85 percentile of recorded storm events.

⁸ California Regional Water Quality Control Board Los Angeles Region, Standard Urban Storm Water Mitigation Plans and Numerical Design Standards for Best Management Practices - Staff Report and Record of Decision (Jan. 18, 2000) <http://www.swrcb.ca.gov/rwqcb4/water_issues/programs/stormwater/susmp/susmp_final_staff_report.pdf>. [as of February 4, 2014].

⁹ California Stormwater Quality Association, Stormwater Best Management Practice New Development and Redevelopment Handbook (2003) <<http://www.casqa.org/>>. [as of February 4, 2014].

¹⁰ City of Portland Oregon, Portland Stormwater Management Manual Appendix E.1: Pollution Reduction Methodology E.1-1 (August 1, 2008). <<http://www.portlandoregon.gov/bes/article/202909>>. [as of February 4, 2014].

¹¹ California Stormwater Quality Association (CASQA). CASQA BMP Handbook (January 2003) New Development and Redevelopment (Errata 9-04) <<http://www.casqa.org/>>. [as of February 4, 2014].

Dischargers should be aware of the potential unintended public health concerns associated with treatment control BMPs. Extensive monitoring studies conducted by the California Department of Public Health (CDPH) have documented that mosquitoes opportunistically breed in structural BMPs, particularly those that hold standing water for over 96 hours. BMPs that produce mosquitoes create potential public health concerns and increase the burden on local vector control agencies that are mandated to inspect for and abate mosquitoes and other vectors within their jurisdictional boundaries. These unintended consequences can be lessened when BMPs incorporate design, construction, and maintenance principles developed specifically to minimize standing water available to mosquitoes¹² while having negligible effects on the capacity of the structures to provide water quality improvements. The California Health and Safety Code prohibits landowners from knowingly providing habitat for or allowing the production of mosquitoes and other vectors, and gives local vector control agencies broad inspection and abatement powers.¹³

Dischargers who install any type of volume-based treatment device are encouraged to consider the BMPs in the California Department of Public Health's guidance manual published July 2012, "Best Management Practices for Mosquito Control in California" at <http://www.cdph.ca.gov/HealthInfo/discond/Documents/BMPforMosquitoControl07-12.pdf>.

4. Monitoring Implementation Plan

Dischargers are required to prepare and implement a Monitoring Implementation Plan (Section X.I of this General Permit). The Monitoring Implementation Plan requirements are designed to assist the Discharger in developing a comprehensive plan for the monitoring requirements in this General Permit and to assess their monitoring program. The Monitoring Implementation Plan includes a description of visual observation procedures and locations, as well as sampling procedures, locations, and methods. The Monitoring Implementation Plan shall be included in the SWPPP.

J. Monitoring and Reporting Requirements

1. General Monitoring Provisions

This General Permit requires Dischargers to develop and implement a facility-specific monitoring program. Monitoring is defined as visual observations, sampling and analysis. The monitoring data will be used to determine:

¹² California Department of Public Health. (2012). Best Management Practices for Mosquito Control in California. <<http://www.westnile.ca.gov/resources.php>>. [as of February 4, 2014]

¹³ California Health & Safety Code, Division 3, Section 2060 and following.

- a. Whether BMPs addressing pollutants in industrial storm water discharges and authorized NSWDS are effective for compliance with the effluent and receiving water limitations of this General Permit,
- b. The presence of pollutants in industrial storm water discharges and authorized NSWDS (and their sources) that may trigger the implementation of additional BMPs and/or SWPPP revisions; and,
- c. The effectiveness of BMPs in reducing or preventing pollutants in industrial storm water discharges and authorized NSWDS.

Effluent sampling and analysis information may be useful to Dischargers when evaluating the need for improved BMPs. The monitoring requirements in this General Permit recognize the 2008 MSGP approach to visual observations as an effective monitoring method for evaluating the effectiveness of BMPs at most facilities. Section 6.2 of the 2008 MSGP limits its monitoring sampling requirements to certain industrial categories. Similar to the previous permit, this General Permit requires all Dischargers to sample unless they have obtained NEC coverage or have an inactive mining operation(s) certified as allowed under this General Permit Section XIII.

This General Permit defines a Qualifying Storm Event (QSE) to provide clarity to Dischargers of when sampling is required. The previous permit (Section B.5.a) specified that sampling was required within the first hour of discharge; however, this General Permit requires Dischargers to sample within four hours of the start of Discharge. Many Dischargers were not able to get samples of their discharge locations within one (1) hour under the previous permit so this general permit has expanded the timeframe allowed to provide enough time to sample all discharge locations. The previous permit required three working dry days before sampling and this General Permit defines this period as 48 hours, this timeframe was decreased to provide more opportunities for Dischargers to obtain samples. This General Permit does not specify a volume for sampling due to the complexity of using rain gauges and the limited access of rain gauge station data.

Dischargers are only required to obtain samples required during scheduled facility operating hours and when sampling conditions are safe in accordance with Section XI.C.6.a.ii of this General Permit. If a storm event occurs during unscheduled facility operating hours (e.g. during the weekend or night) and during the 12 hours preceding the scheduled facility operating hours, the Dischargers is still responsible for obtaining samples at discharge locations that are still producing a discharge at the start of facility operations. Under the previous permit, many Dischargers were unable to obtain samples due to rainfall beginning at night.

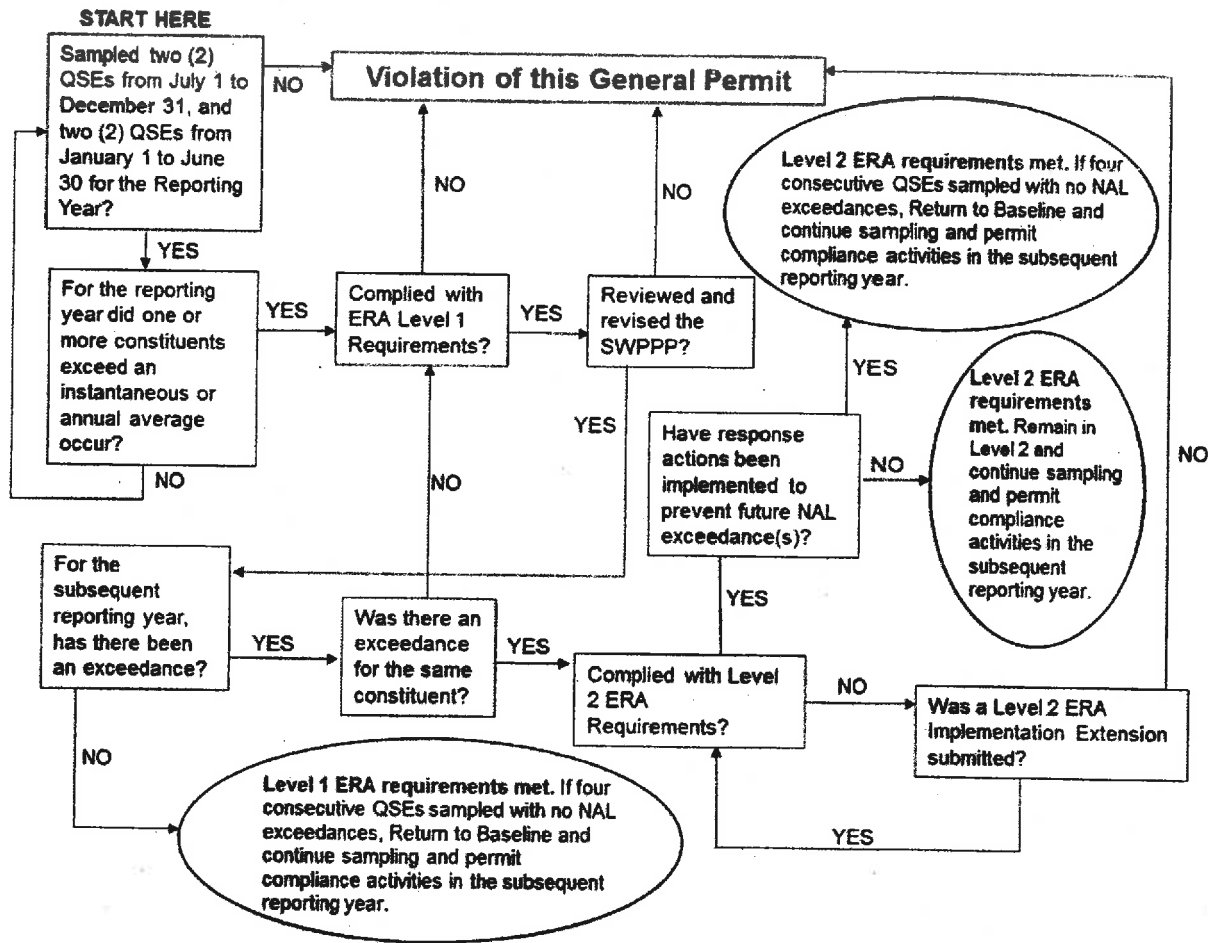
The State Water Board recognizes that it may not be feasible for all facilities to obtain four QSEs in a reporting year because there may not be enough qualifying storm events to do so. Therefore, a Discharger that is unable to collect and analyze storm water samples from two QSEs in each half of a reporting year due to a lack of QSEs is not in violation of Section XI.B.2. Dischargers that miss four QSEs during

a reporting year due to the fact that four QSEs did not occur are not required to make up these sampling events in subsequent reporting years.

The State Water Board recognizes that each facility has unique physical characteristics, industrial activities, and/or variations in BMP implementation and performance which warrants the requirement that each facility demonstrate its compliance. Figure 3 of this Fact Sheet provides a summary of all the monitoring-related requirements of this General Permit. This General Permit's monitoring requirements include sampling and analysis requirements for specific indicator parameters that indicate the presence of pollutants in industrial storm water discharges. The "indicator parameters" are oil and grease (for petroleum hydrocarbons), total suspended solids (for sediment and sediment bound pollutants) and pH (for acidic and alkaline pollutants). Additionally, Dischargers are required to evaluate their facilities and analyze samples for additional facility-specific parameters. These monitoring program requirements are designed to provide useful, cost-effective, timely, and easily obtained information to assist Dischargers as they identify their facility's pollutant sources and implement corrective actions and revise BMPs as necessary (Section XI.A.4 of this General Permit).

This General Permit requires a combination of visual observations and analytical monitoring. Visual observations provide Dischargers with immediate information indicating the presence of many pollutants and their sources. Dischargers must implement timely actions and revise BMPs as necessary (Section XI.A.4) when the visual observations indicate pollutant sources have not been adequately addressed in the SWPPP. Analytical monitoring provides an additional indication of the presence and concentrations of pollutants in storm water discharge. Dischargers are required to evaluate potential pollutant sources and corresponding BMPs and revise the SWPPP appropriately when specific types of NAL exceedances occur as described below.

FIGURE 3: Compliance Determination Flowchart



2. Visual Observations

There are two major changes to the visual observation requirements in this General Permit compared to the previous permit, which include:

a. Monthly Visual Observations

The previous permit required separate quarterly visual observations for unauthorized and authorized non-storm water discharges. It did not require periodic visual observations of the facility to determine whether all potential pollutant sources were being adequately controlled with BMPs. Prior drafts of this General Permit proposed the addition of pre-storm inspections. This was met with great resistance by Dischargers because of the complexity and burden of determining when a QSE would occur. Many of these Dischargers recommended that monthly BMP and non-storm water discharge visual observations should replace the proposed pre-storm inspections. This General Permit merges all visual observations into a single monthly visual observation.

b. Sampling Event Visual Observations

The previous permit required monthly storm water visual observations. This required Dischargers to conduct visual observations for QSEs that were not being sampled since only two QSEs were required to be sampled in the previous permit. As discussed below, the sampling requirement has been increased to four QSEs within each reporting year with two QSEs required in each half of the reporting year. We expect that this will result in more samples being collected and analyzed, since most of California experiences, on average, at least two QSEs per half year. This General Permit streamlines the storm water visual observation requirement by linking the visual observations to the time of sampling.

3. Sampling and Analysis

a. General

As part of the process for developing previous drafts of this General Permit, the State Water Board considered comments from numerous stakeholders concerning sampling and analysis. Sampling and analysis issues were the most dominant of all issues raised in the comments.

The State Water Board received stakeholder comments that fall into three primary categories concerning this General Permit's sampling and analysis approach:

- i. Comments supporting an intensive water quality sampling and analysis approach (with the goal of producing more accurate discharge-characterizing and pollutant concentration data) as the primary method of determining compliance with effluent limitations and receiving water limitations. Since this approach requires large amounts of high quality data to accurately quantify the characteristics of the discharges, it is referred to as the quantitative monitoring approach. Stakeholders supporting the quantitative approach generally also support the use of stringent NELs to evaluate compliance with this General Permit;
- ii. Comments supporting only visual observations as the primary method of determining compliance: These stakeholders generally assert that storm water sampling is an incomplete and not very cost effective means of determining water quality impacts on the receiving waters; and,
- iii. Comments supporting a combination of visual observations and cost-effective water quality sampling and analysis approach (sampling and analysis that would produce data indicating the presence of pollutants) to determine compliance (similar to the previous permit's approach). Since this approach uses more qualitative information to describe the quality and characteristics of the discharges, it is referred to as the qualitative monitoring approach.

Within each of the three categories, there are various recommendations and rationales as to the exact monitoring frequencies, procedures and methods, required to implement the approach. Stakeholders in favor of the quantitative monitoring approach commented that it is the only reliable and meaningful

method of assuring that: (1) BMPs are effective in reducing or preventing pollutants in storm water discharge in compliance with BAT/BCT, and (2) the discharge is not causing or contributing to an exceedance of a water quality standards. The stakeholders state that visual observations are not effective in measuring pollutant concentrations nor is it effective in determining the presence of colorless and/or odorless pollutants. The stakeholders state that qualitative monitoring (and the use of indicator parameters) will not provide results useful for calculating pollutant loading nor will it accurately characterize the discharge.

Stakeholders in favor of requiring only visual observations state that sampling and analysis is unnecessary because (1) the previous permit did not include NELs so the usefulness of sampling and analysis data is limited, (2) a significant majority of Dischargers should be able to develop appropriate BMPs without sampling and analysis data, (3) most pollutant sources and pollutants can be detected and mitigated through visual observations, (4) the costs associated with quantitative monitoring are excessive and disproportionate to any benefits, (5) U.S. EPA's storm water regulations do not require sampling, (6) The 2008 MSGP relies heavily on visual observations and requires only a limited number of specific industries to conduct sampling and analysis, and (7) the majority of Dischargers are small businesses and do not have sufficient training or understanding to perform accurate sampling and analysis.

Stakeholders in favor of requiring both visual observations and a cost-effective qualitative monitoring program state that (1) both are within the means and understanding of most Dischargers, and (2) monitoring results are useful for evaluating a Discharger's compliance without unnecessarily increasing the burden on the Discharger and without subjecting Dischargers to non-technical enforcement actions.

The State Water Board finds that it is feasible for the majority of Dischargers to develop appropriate BMPs without having to perform large amounts of quantitative monitoring, which can be very costly. In the absence of implementing NELs, the State Water Board has determined that the infeasibility and costs associated with developing quantitative monitoring programs at each of thousands industrial facilities currently permitted would outweigh the limited benefits. The primary difficulty associated with requiring intensive quantitative monitoring lies with the cost and the difficulty of accurately sampling industrial storm water discharges.

Stakeholders that support quantitative monitoring believe the data is necessary to determine pollutant loading, concentration, or contribution to water quality violations. In order to derive data necessary to support those goals, however, the data must be of high quality, meaning it must be accurate, precise and have an intact chain of custody. Many industrial facilities do not have well-defined storm water conveyance systems for sample collection. Storm water frequently discharges from multiple locations through sheet flow into nearby streets and adjoining properties. Sample collection from a portion of the sheet flow is an inexact measurement since not all of the flow is sampled. Requiring every Discharger to construct well-defined storm water conveyances may cost

anywhere from thousands to hundreds of thousands of dollars per facility depending on the size and nature of each industrial facility. At many facilities, the construction of such conveyances may also violate local building codes, create safety hazards, cause flooding, or increase erosion. In addition, eliminating sheet flow at some facilities could result in increased pollutant concentrations.

The State Water Board has considered the complexity and costs associated with quantitative monitoring. Unlike continuous point source discharges (e.g., publicly owned treatment works), storm water discharges are variable in intensity and duration. The concentration of pollutants discharged at any one time is dependent on many complex variables. The largest concentration of pollutants would be expected to discharge earlier in the storm event and taper off as discharges continue. Therefore, effective quantitative monitoring of storm water discharges would require that storm water discharges be collected and sampled until most or all of the pollutants have been discharged. Multiple samples would need to be collected over many hours. To determine the pollutant mass loading, the storm water discharge flow must also be measured each time a sample is collected.

For a quantitative monitoring approach to yield useful pollutant loading information, the installation of automatic sampling devices and flow meters at each discharge location would usually be necessary. In addition, qualified individuals would be needed to conduct the monitoring procedures, and to handle and maintain flow meters and automatic samplers are needed. A significant majority of storm water Dischargers under this General Permit do not possess the skills to manage such an effort. Dischargers will bear the cost of employing and/or training on-site staff to do this work, or the cost of contracting with environmental consultants and acquiring the required flow meters and automatic samplers. The cost to Dischargers to conduct quantitative monitoring varies depending on the number of outfalls, the number of storms, the length of each storm, the amount of staff training, and other variables.

To address these concerns, this General Permit includes a number of new items that bridge the gap between the previous permit's qualitative monitoring and the quantitative approach recommended by many commenters. This General Permit includes a requirement for all Dischargers to designate a QISP when they enter Level 1 status due to NAL exceedances. The QISP is required to be trained to: (1) more accurately identify discharge locations representative of the facility storm water discharge (2) select and implement appropriate sampling procedures (3) evaluate and develop additional BMPs to reduce or prevent pollutants in the industrial storm water discharges.

Dischargers that fail to develop and implement an adequate Monitoring Implementation Plan that includes both visual observations and sampling and analysis, are in violation of this General Permit. Dischargers that fail to comply with Level 1 status and Level 2 status ERA requirements, triggered by NAL exceedances, are in violation of this General Permit.

Water Code section 13383.5 requires that the State Water Board include (1) standardized methods for collection of storm water samples, (2) standardized methods for analysis of storm water samples, (3) a requirement that every sample analysis be completed by a State certified laboratory or in the field in accordance with Quality Assurance and Quality Control (QA/QC) protocols, (4) a standardized reporting format, (5) standardized sampling and analysis programs for QA/QC, and (6) minimum detection limits. The monitoring requirements in this General Permit (Section XI), as supplemented by SMARTS, address these requirements.

Under the previous permit, many Dischargers did not developed adequate sample collection and handling procedures, decreasing the quality of analytical results. In addition, Dischargers often selected inappropriate test methods, method detection limits, or reporting units. This General Permit requires all Dischargers to identify discharge locations that are representative of industrial storm water discharges and develop and implement reasonable sampling procedures to ensure that samples are not mishandled or contaminated.

It is infeasible for the State Water Board to provide a single comprehensive set of sample collection and handling procedures/instructions due to the wide variation in storm water conveyance and collection systems in use at facilities around the state. As an alternative, Attachment H of this General Permit provides minimum storm water sample collection and handling instructions that pertain to all facilities. Dischargers are required to develop facility-specific sample collection and handling procedures based upon these minimum requirements. Table 2 in this General Permit provides the minimum test methods that shall be used for a variety of common pollutants. Dischargers must be aware that use of more sensitive test methods (e.g., U.S. EPA Method 1631 for Mercury) may be necessary if they discharge to an impaired water body or are otherwise required to do so by the Regional Water Board. This General Permit allows Dischargers to propose an analytical test method for any parameter or pollutant that does not have an analytical test method specified in Table 2 or in SMARTS. Dischargers may also propose analytical test methods with substantially similar or more stringent method detection limits than existing approved analytical test methods. Upon approval, SMARTS will be updated over time to add additional acceptable analytical test methods.

The previous permit allowed Dischargers to reduce sampling analysis requirements for substantially similar drainage areas by either (1) combining samples for an unspecified maximum number of substantially similar drainage areas, or (2) sampling a reduced number of substantially similar drainage areas. The State Water Board provided this procedure to reduce analytical costs. The complexity associated with determining substantially similar drainage areas has led Dischargers to produce various, and sometimes questionable, analytical schemes. In addition, the previous permit did not establish a maximum number of samples that could be combined.

To standardize sample collection and analysis as required by Water Code section 13383.5, while continuing to offer a reduced analytic cost option, these

requirements have been revised. Section XI.B.4 of this General Permit requires Dischargers to collect samples from all discharge locations regardless of whether the discharges are substantially similar or not. Dischargers may analyze each sample collected, or may analyze a combined sample consisting of equal volumes, collected from as many as four (4) substantially similar discharge locations. A minimum of one combined sample shall be analyzed for every one (1) to four (4) discharge locations, and the samples shall be combined in the lab in accordance with Section XI.C.5 of this General Permit.

Representative sampling is only allowed for sheet flow discharges or discharges from drainage areas with multiple discharge locations. Dischargers shall select the appropriate location(s) to be sampled and intervals necessary to obtain samples representative of storm water associated with industrial activities generated within the corresponding drainage area. Dischargers are not required to sample discharge locations that have no exposure of industrial activities or materials as defined in Section XVII of this General Permit within the corresponding drainage area. However, Dischargers are required to conduct the monthly visual observations regardless of the selected locations to be sampled.

This General Permit defines a QSE as a precipitation event that produces a discharge from any drainage area that is preceded by 48 consecutive hours without a discharge from any drainage area. The previous permit did not include a QSE definition; instead, it utilized a different approach to defining the storm events that were required to be sampled. Under the previous permit, eligible storm events were storm events that occurred after three consecutive working days of dry weather. The three consecutive working days of dry weather definition in the previous permit led Dischargers to miss many opportunities to sample. Some Dischargers were unable to collect samples from two storm events in certain years under the previous definition. To resolve this difficulty, this General Permit increases the sampling requirements to four (4) QSEs per year, while decreasing the number of days without a discharge, resulting in additional opportunities for Dischargers to sample. Additionally, by eliminating the previous permit's reference to "dry weather," this General Permit allows some precipitation to occur between QSEs so long as there is no discharge from any drainage area. This change will result in more QSE sampling opportunities.

To improve clarity and consistency, the definitions contained in other storm water permits were considered with the goal of developing a standard definition for 'dry weather' for this General Permit. The 2008 MSGP sets a "measurable storm event" as one that produces at least 0.1 inches of precipitation and results in an actual discharge after 72 hours (three days) of dry weather. The State of Washington defines a "qualifying storm event" as a storm with at least 0.1 inches of precipitation preceded by at least 24 hours of no measurable precipitation, mirroring the definition found in the previous MSGP (2000 version). The State of Oregon requires that samples be taken in the first 12 hours of discharge and no less than 14 days apart. Review of other permits concludes that there is not a single commonly used approach to triggering sampling in industrial general permits. Therefore an enforceable sampling trigger is included in this General

permit that requires Dischargers to sample four storm events within each reporting year.

b. Effluent Water Quality Sampling and Analysis Parameters

Dischargers are required to sample and analyze their effluent for certain parameters. "Parameter" is a term used in laboratory analysis circles to represent a distinct, reportable measure of a particular type. For example, ammonia, hexavalent chromium, total nitrogen and chemical oxygen demand are all parameters that a laboratory can analyze storm water effluent for and report a quantity back. A parameter is also an indicator of pollution. In this General Permit, pH, total suspended solids and chemical oxygen demand are examples of indicator parameters. They are not direct measures of a water quality problem or condition of pollution but can be used to indicate a problem or condition of pollution. Indicator parameters can also be used to indicate practices and/or the presence of materials at a facility to bring forth information for compliance evaluation processes, like annual report review and inspection. For example, chemical oxygen demand concentrations can indicate the presence of dissolved organic compounds, like residual food from collected recycling materials.

Minimum parameter-specific monitoring is required for Dischargers, regardless of whether additional facility-specific parameters are selected. This General Permit requires some parameters to be analyzed and reported for the duration of permit coverage to develop comparable sampling data over time and over many storm events and to demonstrate compliance. The Regional Water Boards may use such data to evaluate individual facility compliance and assess the differences between various industries. Accordingly, the parameters selected correspond to a broad range of industrial facilities, are inexpensive to sample and analyze, and have sampling and analysis methods which are easy to understand and implement. Some analytical methods for field measurements of some parameters, such as pH, may be performed using relatively inexpensive field instruments and provides an immediate alert to possible pollutant sources.

The following three selected minimum parameters are considered indicator parameters, regardless of facility type. These parameters typically provide indication and/or the correlation of whether other pollutants are present in storm water discharge. These parameters were selected for the following reasons:

- i. pH is a numeric measurement of the hydrogen-ion concentration. Many industrial facilities handle materials that can affect pH. A sample is considered to have a neutral pH if it has a value of 7. At values less than 7, water is considered acidic; above 7 it is considered alkaline or basic. Pure rain water in California typically has a pH value of approximately 7.
- ii. Total Suspended Solids (TSS) is an indicator of the un-dissolved solids that are present in storm water discharge. Sources of TSS include sediment from erosion, and dirt from impervious (i.e., paved) areas. Many pollutants adhere to sediment particles; therefore, reducing sediment will reduce the amount of these pollutants in storm water discharge.

- iii. Oil and Grease (O&G) is a measure of the amount of O&G present in storm water discharge. At very low concentrations, O&G can cause sheen on the surface of water. O&G can adversely affect aquatic life, create unsightly floating material, and make water undrinkable. Sources of O&G include, but are not limited to, maintenance shops, vehicles, machines and roadways.

The previous permit allowed Dischargers to analyze samples for either O&G or Total Organic Carbon (TOC). This General Permit requires all Dischargers analyze samples for O&G since almost all Dischargers with outdoor activities operate equipment and vehicles can potentially generate insoluble oils and greases. Dischargers with water soluble-based organic oils may be required to also test for TOC. The TOC and O&G tests are not synonymous, duplicative or interchangeable.

This General Permit removes the requirement to analyze for specific conductance as part of the minimum analytic parameters. Specific conductance is not required by U.S. EPA for any industry type. Additionally, stakeholder comments indicate that there are many non-industrial sources that may cause high specific conductance and interfere with the efficacy of the test. For example, salty air deposition that occurs at facilities in coastal areas may raise the specific conductance in water over 500 micro-ohms per centimeter ($\mu\text{hos/cm}$). Dischargers are not prevented from performing a specific conductance test as a screening tool if it is useful to detect a particular pollutant of concern as required (e.g. salinity).

This General Permit requires Dischargers subject to Subchapter N ELGs for pH to analyze for pH using approved test methods in accordance with 40 Code of Federal Regulations part 136. These federal regulations specify that analysis of pH must take place within 15 minutes of sample collection. All other Dischargers may screen for pH using wide range litmus pH paper or other equivalent pH test kits within 15 minutes of sample collection. If in any reporting year a Discharger has two or more pH results outside of the range of 6.0 – 9.0 pH units, that Discharger is required to comply with the approved test methods in 40 Code of Federal Regulations part 136 in subsequent reporting years.

For almost all Dischargers, obtaining laboratory analysis within 15 minutes is logistically impossible. For many Dischargers, maintaining a calibrated pH meter is difficult, labor intensive, and error prone. Screening for pH will limit the number of additional Dischargers required to comply with 40 Code of Federal Regulations part 136 methods to those that have pH measures outside the range of 6.0-9.0 pH units. The use of wide range litmus pH paper or other equivalent pH test kits is not as accurate as a calibrated pH meter, however litmus paper is allowed in the 2008 MSGP, and when used properly it can provide an accurate screening measure to determine if further more-accurate pH sampling is necessary to determine compliance.

Review of available monitoring data shows that storm water discharges from most types of industrial facilities comply with the pH range of 6.0 to 9.0 pH units. There are specific types of industries, like cement or concrete manufacturers that

have shown a trend of higher pH values very close to 9.0 pH units. Rather than require all industries as a whole to monitor with the more costly 40 Code of Federal Regulations part 136 methods, this General Permit establishes a triggering mechanism for these more advanced pH test methods. The Regional Water Boards retain their authority to require more accurate test methods. Once a Discharger triggers the requirement to use the more accurate testing methods in 40 Code of Federal Regulations part 136, the Discharger may not revert back to screening for pH for the duration of coverage under this General Permit.

In the early 1990s, U.S. EPA, through its group application program, evaluated nationwide monitoring data and developed the listed parameters and SIC associations shown in Table 1 of this General Permit. The 2008 MSGP requires that Dischargers analyze storm water effluent for the listed parameters under certain conditions. In addition to the parameters in Table 1 of this General Permit, Dischargers are required to select additional facility-specific analytical parameters to be monitored, based upon the types of materials that are both exposed to and mobilized by contact with storm water. Dischargers must, at a minimum, understand how to identify industrial materials that are handled outdoors and which of those materials can easily dissolve or be otherwise transported via storm water.

The Regional Water Boards have the authority to revise the monitoring requirements for an individual facility or group of facilities based on site-specific factors including geographic location, industry type, and potential to pollute. For example, the Los Angeles Regional Water Board required all dismantlers (SIC Code 5015) within their jurisdiction to monitor for copper and zinc instead of aluminum and iron during the term of the previous permit. SMARTS will be programmed to incorporate any monitoring revisions required by the Regional Water Boards. Dischargers will receive email notification of the monitoring requirement revision and their SMARTS analytical reporting input screen will display the corresponding revisions. Dischargers may add, but not otherwise modify, the sampling parameters on their SMARTS input screen.

Dischargers are also required to identify pollutants that may cause or contribute to an existing exceedance of any applicable water quality standards for the receiving water. This General Permit requires Dischargers to control its discharge as necessary to meet the receiving water limitations, and to select additional monitoring parameters that are representative of industrial materials handled at the facility (regardless of the degree of storm water contact or relative mobility) that may be related to pollutants causing a water body to be impaired.

4. Methods and Exceptions

a. Storm Water Discharge Locations

Dischargers are required to visually observe and collect samples of industrial storm water discharges from each drainage area at all discharge locations. These samples must be representative of the storm water discharge leaving each drainage area. This is a change from the previous permit which allowed a

Discharger to reduce the number of discharge locations sampled if two or more discharge locations were substantially similar.

Dischargers are required to identify, when practicable, alternate discharge locations if: (1) the facility's industrial drainage areas are affected by storm water run-on from surrounding areas that cannot be controlled, or (2) discharge locations are difficult to observe or sample (e.g. submerged discharge outlets, dangerous discharge location accessibility).

b. Representative Sampling Reduction

Some stakeholders have indicated that there are unique circumstances where sampling a subset of representative discharge locations fully characterizes the full set of storm water discharges. Stakeholders provided examples related to drainage areas with multiple discharge locations where sampling only a subset of these discharge locations produces results that are representative of the drainage areas' storm water discharges. In such situations, this General Permit allows Dischargers to reduce the number of discharge locations. For each drainage area with multiple discharge locations (e.g. roofs with multiple downspouts, loading/unloading areas with multiple storm drain inlets), the Discharger may reduce the number of discharge locations to be sampled if the conditions in Section XI.C.4 of this General Permit are met.

c. Qualified Combined Samples

Dischargers may combine samples from up to four (4) discharge locations if the industrial activities within each drainage area and each drainage area's physical characteristics (i.e. grade, surface materials) are substantially similar.

Dischargers are required to provide documentation in the Monitoring Implementation Plan supporting that the above conditions have been evaluated and fulfilled. A Discharger may combine samples from more than four (4) discharge locations only with approval from the appropriate Regional Water Board.

d. Sample Collection and Visual Observation Exceptions

Dischargers are not required to collect samples or conduct visual observations during dangerous weather conditions such as flooding or electrical storms, or outside of scheduled facility operating hours. A Discharger is not precluded from conducting sample collection activities or visual observations outside of scheduled facility operating hours.

In the event that a Discharger is unable to collect the required samples or conduct visual observations due to the above exceptions, the Discharger must include an explanation of the conditions obstructing safe monitoring in its Annual Report. If access to a discharge location is dangerous on a routine basis, a Discharger must choose an alternative discharge location in accordance with General Permit Section XI.C.3.

e. Sampling Frequency Reduction

Facilities that do not have NAL exceedances for four (4) consecutive QSEs are unlikely to pose a significant threat to water quality. If the storm water from these facilities is also in full compliance with this General Permit, the Discharger is eligible for a reduction in sampling frequency. The Sampling Frequency Reduction allows a Discharger to decrease its monitoring from four (4) samples within each reporting year to one (1) QSE within the first half of each reporting year (July 1 to December 31) and one (1) QSE within the second half of each reporting year (January 1 to June 30). If a Discharger has a subsequent NAL exceedance after the Sampling Frequency Reduction, it must comply with the original sampling requirements of this General Permit. Only Dischargers that have baseline status or that have satisfied the Level 1 requirements are eligible for this sampling and analysis reduction.

A Discharger requesting to reduce its sampling frequency shall certify and submit a Sampling Frequency Reduction certification via SMARTS. The Sampling Frequency Reduction certification shall include documentation that the General Permit conditions for the Sampling Frequency Reduction have been satisfied.

Dischargers participating in a Compliance Group and certifying a Sampling Frequency Reduction are only required to collect and analyze storm water samples from one (1) QSE within each reporting year. These Dischargers must receive year-round compliance assistance from their Compliance Group Leader and must comply with all requirements of this General Permit.

5. Facilities Subject to Federal Storm Water Effluent Limitation Guidelines (ELGs)

Federal regulations at Subchapter N establish ELGs for industrial storm water discharges from facilities in eleven industrial sectors. For these facilities, compliance with the ELGs constitutes compliance with the technology standard of BPT, BAT, BCT, or New Source Performance Standards provided in the ELG for the specified pollutants, and compliance with the technology-based requirements in this General Permit for the specified pollutant.

K. Exceedance Response Actions (ERAs)

1. General

The previous permit did not incorporate the benchmarks from any of the MSGPs or NALs for Dischargers to evaluate sampling results. Unlike the requirements for industrial storm water discharges that cause or contribute to an exceedance of a water quality standards, the previous permit did not provide definitions, procedures or guidelines to assess sampling results. Many Regional Water Boards have formally or informally notified Dischargers that exceedances of the MSGP benchmarks should be used to determine whether additional BMPs are necessary. However, there was considerable confusion as to the extent to which a Discharger would be expected to implement actions in response to exceedances of these values, and the timelines that had to be met to prevent an enforcement action. The lack of specificity with regards to what constituted an exceedance, and what actions

are required in response to an exceedance, have been identified as a problem by the Water Boards, industry and environmental stakeholders.

This General Permit contains two (2) types of NALs. Annual NALs function similarly to, and are based upon, the values provided in the 2008 MSGP. Instantaneous maximum NALs target hot spots or episodic discharges of pollutants and are established based on California industrial storm water discharge monitoring data. When a Discharger exceeds an NAL it is required to perform ERAs. The ERAs are divided into two levels of responses and can generally be differentiated by the number of years in which a facility's discharge exceeds an NAL trigger. These two levels are explained further in Section XII of this General Permit. This ERA process provides Dischargers with an adaptive management-based process to develop and implement cost-effective BMPs that are protective of water quality and compliant with this General Permit. This process is also designed to provide Dischargers with a more defined pathway towards full compliance.

The ERA requirements in this General Permit were developed using best professional judgment and Water Board experience with the shortcomings of the previous permit's compliance procedures. Public comments received during State Water Board hearings on the 2002, 2005, 2011, 2012 and 2013 draft permits, and NPDES industrial storm water discharge permits from other states with well-defined ERA requirements were also considered by the State Water Board.

The State Water Board presumes that one single NAL exceedance for a particular parameter is not a clear indicator that a facility's discharge is out of compliance with the technology-based effluent limitations or receiving water limitations. This presumption recognizes the highly variable nature of storm water discharge and the limited value of a single quarterly grab sample to represent the quality of a facility's storm water discharge for an entire storm event and all other non-sampled storm events. With this presumption, the State Water Board is addressing costly monitoring requirements that do not bring forth valuable compliance and/or water quality information.

2. NALs and NAL Exceedances

a. This General Permit contains two types of NAL exceedances as follows:

Annual NAL exceedance - the Discharger is required to calculate the average annual concentration for each parameter using the results of all sampling and analytical results for the entire facility for the reporting year (i.e., all "effluent" data), and compare the annual average concentration to the corresponding Annual NAL values in Table 2 of this General Permit. An annual NAL exceedance occurs when the annual average of all the sampling results for a parameter taken within a reporting year exceeds the annual NAL value for that parameter listed in Table 2 of this General Permit.

For the purposes of calculating the annual average concentration for each parameter, this General Permit considers any sampling result that are a "non-detect" or less than the method detection limit as a zero (0) value. The reason to use zero (0) values instead of the detected but not quantifiable

value (minimum level or reporting limit) is that these values are very low and are unlikely to contribute to an NAL exceedance. There are statistical methods to include low values when calculations are for numeric criteria and limitations, however, the NALs in this General Permit are approximate values used to provide feedback to the Discharger on site performance, and are not numeric criteria or limitations. Therefore, it is not necessary to include these insignificant values in the calculations for the NALs. For Dischargers using composite sampling or flow measurement in accordance with standard practices, the average concentrations shall be calculated in accordance with the U.S. EPA Guidance Manual for the Monitoring and Reporting Requirements of the NPDES Multi-Sector Storm Water General Permit.¹⁴

- i. Instantaneous maximum NAL exceedance - the Discharger is required to compare all sampling and analytical results from each distinct sample (individual or combined) to the corresponding instantaneous maximum NAL values in Table 2 of this General Permit. An instantaneous maximum NAL exceedance occurs when two or more analytical results from samples taken for any parameter within a reporting year exceed the instantaneous maximum NAL value (for TSS and O&G), or are outside of the instantaneous maximum NAL range (for pH).

b. Instantaneous maximum NAL analysis

In its June 19, 2006 report, the Blue Ribbon Panel of Experts (Panel) made several specific recommendations for how to set numeric limitations in future industrial storm water general permit(s). For sites not subject to TMDLs, the Panel suggested that the numeric values be based upon industry types or categories, with the recognition that each industry has its own specific water quality issues and financial viability. Furthermore, the Panel concluded:

To establish Numeric Limits for industrial sites requires a reliable database, describing current emissions by industry types or categories, and performance of existing BMPs. The current industrial permit has not produced such a database for most industrial categories because of inconsistencies in monitoring or compliance with monitoring requirements. The Board needs to reexamine the existing data sources, collect new data as required and for additional water quality parameters (the current permit requires only pH, conductivity, total suspended solids, and either total organic carbon or oil and grease) to establish practical and achievable Numeric Limits.

The Panel suggested an alternative method that would allow the use of the existing Water Board dataset to establish action levels, referred to as the "ranked percentile" method. The Panel recommended:

¹⁴ U.S. EPA. NPDES Storm Water Sampling Guidance Document. Web. July 1992. <<http://www.epa.gov/npdes/pubs/owm0093.pdf>>. [as of February 4, 2014].

The ranked percentile approach (also a statistical approach) relies on the average cumulative distribution of water quality data for each constituent developed from many water quality samples taken for many events at many locations. The Action Level would then be defined as those concentrations that consistently exceed some percentage of all water quality events (i.e. the 90th percentile). In this case, action would be required at those locations that were consistently in the outer limit (i.e. uppermost 10th percentile) of the distribution of observed effluent qualities from urban runoff.

After performing various data analysis exercises with the Water Board dataset, State Water Board staff concluded that the Water Board dataset is not adequate to calculate instantaneous NAL values using the Panel's recommended method for all of parameters that have annual NAL values based on the U.S. EPA benchmarks. Additionally, public comments on the January 2011 draft of this General Permit suggest that it is problematic to calculate NAL values based on the existing data. Therefore, the Water Board dataset was not used to calculate instantaneous NAL values for all parameters.

However, since all Dischargers regulated under the previous permit were required to sample for TSS and O&G/TOC, State Water Board staff found that the existing dataset for these parameters is of sufficient quality to calculate instantaneous NAL values. State Water Board staff also found that this data was less prone to what appear to be data input errors. The final dataset used to calculate the instantaneous NALs in this General Permit had outlier values that were eliminated from the dataset by using approved test method detection limits ranges. The methods and corresponding method detection limit ranges used to screen outliers are as follows:

- O&G - EPA 413.1 Applicable Range: 5-1,000 mg/L
- O&G - EPA 1664 Applicable Range: 5-1,000 mg/L
- TSS - EPA 160.2 Applicable Range: 4-20,000 mg/L

The intent of the instantaneous maximum NAL is to identify specific drainage areas of concern or episodic sources of pollution in industrial storm water that may indicate inadequate storm water controls and/or water quality impacts. In the effort to add instantaneous NAL exceedances to the ERA process, the State Water Board explored different options for the development of an appropriate value (i.e. percentile approach, benchmarks times a multiplier, confidence intervals). The California Stormwater Quality Association's comments on the previous draft permit included a proposed method for calculating NAL values using a percentile approach. The State Water Board researched and evaluated this methodology and determined it is the most appropriate way to directly compare available electronic sampling data from Dischargers regulated under the previous permit. This percentile approach was used to establish the instantaneous maximum NALs in this General Permit, for discharges to directly compare with sampling results and identify drainage areas of water quality concern.

The percentile approach is a non-parametric approach identified in many statistical textbooks for determining highly suspect values. Highly suspect values are defined as values that exceed the limits of the outer fences of a box plot. Upper limits of the outer fence are calculated by adding three times the inter-quartile range (25th to 75th percentiles) to the upper-end of the inter-quartile range (the 75th percentile). The California Stormwater Quality Association calculated an NAL value of 401 mg/L for TSS using the percentile approach using the Water Board dataset. The State Water Board performed the same analysis with the same Water Board dataset and calculated a slightly different value of 396 mg/L; therefore, the instantaneous maximum NAL value for TSS of 400 mg/L was established. Applying the percentile approach to the existing O&G data results in the instantaneous maximum NAL value for O&G of 25 mg/L.

The State Water Board compared existing sampling data to the instantaneous maximum NAL values and concluded that seven (7) percent of the total samples exceeded the highly suspected value for TSS and 7.8 percent of the total samples exceeded the highly suspected value for O&G. These results suggest that the instantaneous maximum NAL values are adequate to identify drainage areas of concern statewide since they are not regularly exceeded. Using best professional judgment, the State Water Board concludes that an exceedance of these values twice within a reporting year is unlikely to be the result of storm event variability or random BMP implementation problems, and the use of the percentile approach is therefore appropriate.

Due to issues with the ranges of concentrations and the logarithmic nature of pH, statistical methods cannot be applied to pH in the same ways as other parameters. Review of storm water sampling data by the State Water Board and other stakeholders has shown that pH is not typically a parameter of concern for most industrial facilities. Accordingly, a range of pH limits established in Regional Water Board Basin Plans is implemented in this General Permit for the instantaneous maximum NAL values. Most Basin Plans set a water quality objective of 6.0 - 9.0 pH units for water bodies, an exceedance outside the range of 6.0 - 9.0 pH units is consistent with the water quality concerns for pH among Regional Water Boards. An industrial facility with proper BMP implementation is expected to have industrial storm water discharges within the range of 6.0 - 9.0 pH units.

High concentrations of TSS and O&G, or pH values outside the range of 6.0 – 9.0 pH units, in a discharge may be an indicator of potential BMP implementation or receiving water quality concerns with other pollutants with parameters that do not have an instantaneous maximum NAL value. The State Water Board may consider instantaneous maximum NAL values for other parameters in a subsequent reissuance of this General Permit, based on data collected during this General Permit term.

The percentile approach is considered by many stakeholders to be the best method to evaluate BMP performance and general effluent quality in a community or population where the vast majority of the industrial facilities are implementing sufficient pollutant control measures. The Water Board's current

dataset does not provide a way of evaluating actual BMP implementation at each facility when analyzing the data; therefore the monitoring information reported during the previous permit term cannot be linked to compliance with technology-based standards. The State Water Board intends to use data collected during this General Permit term to evaluate the percentile approach, improve the quality of collected data for other parameters, and further develop an understanding of how reported data relates to implemented BMP-control technologies.

Under this General Permit, a Discharger enters Level 1 status and must fulfill the Level 1 status ERA requirements following its first occurrence of any NAL exceedance. Level 2 status ERA requirements follow the second occurrence of an NAL exceedance for the same parameter in a subsequent reporting year. This ERA process provides Dischargers with an adaptive management-based process to develop and implement cost-effective BMPs that are protective of water quality and compliant with this General Permit. This General Permit's ERA process is designed to have a well-defined compliance end-point. It is not a violation of this General Permit to exceed the NAL values; it is a violation of the permit, however, to fail to comply with the Level 1 status and Level 2 status ERA requirements in the event of NAL exceedances.

The State Water Board acknowledges that storm water discharge concentrations are often highly variable and dependent upon numerous circumstances such as storm size, the time elapsed since the last storm, seasonal activities, and the time of sample collection. Since there are potential enforcement consequences for failure to comply with this General Permit's ERA process, the State Water Board's intention is to use NAL exceedances to solely require Dischargers with recurring annual NAL exceedances or drainage areas that produce recurring instantaneous maximum NAL exceedances to be subject to the follow-up ERA requirements.

If NALs exceedances do not occur, the State Water Board generally expects that the Discharger has implemented sufficient BMPs to control storm water pollution. When NAL exceedances do occur, however, the potential that the Discharger may not have implemented appropriate and/or sufficient BMPs increases, and the Discharger is required to implement escalating levels of ERAs. If NAL exceedances occur, this General Permit requires Dischargers to evaluate and potentially install additional BMPs, or re-evaluate and improve existing BMPs to be in compliance with this General Permit.

3. Baseline Status

At the beginning of a Discharger's NOI coverage under this General Permit, the Discharger has Baseline status. A Discharger demonstrating compliance with all NALs will remain at Baseline status and is not required to complete Level 1 status and Level 2 status ERA requirements.

If a Discharger has returned to Baseline status (from Level 2 status) and additional NAL exceedances occur, the Discharger goes into Level 1 status, then potentially

Level 2 status. Dischargers do not go directly into Level 2 status from Baseline status.

4. Level 1 Status

Regardless of when an NAL exceedance occurs during Baseline status, a Discharger's status changes from Baseline status to Level 1 status on July 1 of the subsequent reporting year. By October 1 following the commencement of Level 1 status, the Discharger is required to appoint a QISP to assist with the completion of the Level 1 Evaluation. The Level 1 Evaluation must include a review of the facility's SWPPP for compliance with the effluent and receiving water limitations of this General Permit, an evaluation of the industrial pollutant sources at the facility that are or may be related to the NAL exceedance(s), and identification of any additional BMPs that will eliminate future exceedances. When conducting the Level 1 Evaluation, a Discharger must ensure that all potential pollutant sources that could be causing or contributing to the NAL exceedance(s) are fully characterized, that the current BMPs are adequately described, that employees responsible for implementing BMPs are appropriately trained, and that internal procedures are in place to track that BMPs are being implemented as designed in the SWPPP. A Discharger is additionally required to evaluate the need for additional BMPs. Level 1 ERAs are designed to provide the Discharger the opportunity to improve existing BMPs or add additional BMPs to comply with the requirements of this General Permit.

By January 1 following commencement of Level 1 status, a Discharger is required to certify and submit via SMARTS a Level 1 ERA Report prepared by a QISP. The Level 1 ERA Report must contain a summary of the Level 1 Evaluation, all new or revised BMPs added to the SWPPP.

In most cases, the State Water Board believes that Level 1 status BMPs will be operationally related rather than structural and, therefore can be implemented without delay. Recognizing that a Discharger should not be penalized for sampling results obtained before implementing BMPs, sampling results for parameters and their corresponding drainage areas that caused the NAL exceedance up to October 1 or the date the BMPs were implemented, whichever is sooner, will not be used for calculating NAL exceedances. Although this General Permit allows up to January 1 to implement Level 1 status BMPs, the State Board has chosen an interim date of October 1 to encourage more timely Level 1 BMP implementation. Dischargers who implement Level 1 BMPs after October 1 may risk obtaining subsequent sampling results that may cause them to go into Level 2 status.

5. Level 2 Status

Level 2 ERAs are required during any subsequent reporting year in which the same parameter(s) has an NAL exceedance (annual average or instantaneous maximum), if this occurs, a Discharger's status changes from Level 1 status to Level 2 status on July 1 of the subsequent reporting year. Dischargers with Level 2 status must further evaluate BMP options for their facility. Dischargers may have to implement additional BMPs, which may include physical, structural, or mechanical devices that

are intended to prevent pollutants from contacting storm water. Examples of such controls include, but are not limited to:

- Enclosing and/or covering outdoor pollutant sources within a building or under a roofed or tarped outdoor area.
- Physically separating the pollutant sources from contact with run-on of uncontaminated storm water.
- Devices that direct contaminated storm water to appropriate treatment BMPs (e.g., discharge to sanitary sewer as allowed by local sewer authority).
- Treatment BMPs including, but not limited to, detention ponds, oil/water separators, sand filters, sediment removal controls, and constructed wetlands.

Dischargers may select the most cost-effective BMPs to control the discharge of pollutants in industrial storm water discharges. Where appropriate, BMPs can be designed and targeted for various pollutant sources (e.g., providing overhead coverage for one potential pollutant while discharging to a detention basin for another source may be the most cost-effective solution).

a. Level 2 ERA Action Plans

The State Water Board acknowledges that there may be circumstances that make it difficult, if not impossible, for a Discharger to immediately implement additional BMPs. For example, it may take time to get a contract for construction in place, obtain necessary building permits, and design and construct the BMPs. Dischargers may also suspect that pollutants are from a non-industrial or natural background source and need time to study their site. A Discharger is required to certify and submit an Action Plan prepared by a QISP via SMARTS by January 1 following the reporting year in which the NAL exceedance that resulted in the Discharger entering Level 2 occurred. The Level 2 ERA Action Plan requires a Discharger to propose actions necessary to complete the Level 2 ERA Technical Report, the demonstrations the Discharger has selected, and propose a time frame for implementation.

If a Discharger changes the QISP assisting with the Level 2 ERA requirements this General Permit requires the Discharger to update the QISP information via SMARTS. Current information on individuals assisting Dischargers with compliance of this General Permit provides the Water Boards with the necessary contact information if there are questions on the submitted documents, and for possible verification of a QISP's certification.

Dischargers are required to address each Level 2 NAL exceedance in an Action Plan. The State Water Board recognizes that Dischargers with Level 2 status may have multiple parameters or facility areas that have Level 2 NAL exceedances and the timing of the exceedances may make it very difficult to address all Level 2 NAL exceedances in one Action Plan. When Level 2 ERA exceedances occur in subsequent reporting years, after an Action Plan is

certified and submitted, a Discharger will need to develop an Action Plan for this new Level 2 NAL exceedance. This General Permit defines new Level 2 NAL exceedances as an exceedance for a new parameter in any drainage area at the facility, or an exceedance for the same parameter being addressed in an existing Action Plan, but where the exceedance occurred in a different drainage area than identified in the existing Action Plan.

b. Level 2 ERA Technical Reports

The Level 2 ERA Technical Report contains three different options that require a Discharger to submit demonstrations showing the cause of the NAL exceedance(s). This General Permit requires a Discharger to appoint a QISP to prepare the Level 2 ERA Technical Reports. The State Water Board acknowledges that there may be cases where a combination of the demonstrations may be appropriate; therefore a Discharger may combine any of the following three demonstration options in their Level 2 ERA Technical Report when appropriate. A Discharger is only required to annually update its Level 2 ERA Technical Report when necessary as defined in Section XII.D.3.c of this General Permit, and is not required to annually re-certify and re-submit the entire Level 2 ERA Technical Report. If there are no changes prompting an update of the Level 2 ERA Technical Report, as specified in Section XII.D.3.c of this General Permit, the Discharger will provide this certification in the Annual Report that there have been no changes warranting re-submittal of the Level 2 ERA Technical Report.

i. Industrial Activity BMPs Demonstration

The Industrial Activity BMPs Demonstration is for the following:

- Dischargers who decided to implement additional BMPs that are expected to eliminate future NAL exceedance(s) and that have been implemented in order to achieve compliance with the technology-based effluent limitations of this General Permit, and
- Dischargers who decided to implement additional BMPs that may not eliminate future NAL exceedance(s) and that have been implemented in order to achieve compliance with the technology-based effluent limitations of this General Permit.

When preparing the Industrial Activity BMPs Demonstration, the QISP shall identify and evaluate all individual pollutant source(s) associated with industrial activity that are or may be related to an NAL exceedance and all designed, information on the drainage areas associated with the Level 2 NAL exceedances, and installed BMPs that are implemented to reduce or prevent pollutants in industrial storm water discharges in compliance with this General Permit.

If an Industrial Activity BMPs Demonstration is submitted as the Level 2 ERA Technical Report and the Discharger is able to show reductions in pollutant concentrations below the NALs for four (4) subsequent consecutive QSEs, the Discharger returns to Baseline Status. A Discharger that submits an Industrial Activity BMPs Demonstration but has not installed additional BMPs that are expected to eliminate future NAL exceedance(s) will remain with Level 2 status but is not subject to additional ERAs unless directed by the Regional Water Board.

ii. Non-Industrial Pollutant Source Demonstration

A Non-Industrial Pollutant Source Demonstration is for a Discharger to demonstrate that the pollutants causing the NAL exceedances are not related to industrial activities conducted at the facility, and additional BMPs at the facility will not contribute to the reduction of pollutant concentrations.

Dischargers including the Non-Industrial Pollutant Demonstration in their Level 2 ERA Technical Report shall have a QISP determine that the sources of non-industrial pollutants in storm water discharges are not from industrial activity or natural background sources within the facility.

Sources of non-industrial pollutants that are discharged separately and are not comingled with storm water associated with industrial activity are not considered subject to this General Permit's requirements. When pollutants from non-industrial sources are comingled with storm water associated with industrial activity, the Discharger is responsible for all the pollutants in the combined discharge unless the technical report clearly demonstrates that the NAL exceedances due to the combined discharge are solely attributable to the non-industrial sources. The pollutant may also be present due to industrial activities, in which case the Discharger must demonstrate that the pollutant contribution from the industrial activities by itself does not result in an NAL exceedance. In most cases, the Non-Industrial Pollutant Source Demonstration will contain sampling data and analysis distinguishing the pollutants from non-industrial sources from the pollutants generated by industrial activity.

Once the Level 2 ERA Technical Report, including this demonstration is certified and submitted via SMARTS, the Discharger has satisfied all the requirements necessary for that pollutant for ERA purposes. A Discharger that submits a Non-Industrial Pollutant Demonstration remains with Level 2 status but is not subject to additional ERAs unless directed by the Regional Water Board.

iii. Natural Background Pollutant Source Demonstration

The benchmark monitoring schedule in section 6.2.1.2 of the 2008 MSGP allows a Discharger to determine that the exceedance of the benchmark is attributable solely to the presence of that pollutant in the natural background. A Discharger making this determination is not required to perform corrective

action or additional benchmark monitoring providing that the other 2008 MSGP requirements are met. The 2008 MSGP Fact Sheet requires Dischargers to include in the following in the SWPPP: 1) map(s) showing the reference site location, facility, available land cover information, reference site and test site elevation, available geology and soil information for reference and test sites, photographs showing site vegetation, site reconnaissance survey data and records. This General Permit requires this information to be included in the Natural Background Pollutant Source Demonstration in Section XII.D.2.c.

The Natural Background Pollutant Source Demonstration in this General Permit is for a Discharger that can demonstrate that pollutants causing the NAL exceedances are not related to industrial activities conducted at the facility, and are solely attributable to the presence of those pollutants in natural background. The pollutant may also be present due to industrial activities, in which case the Discharger must demonstrate that the pollutant contribution from the industrial activities by itself does not result in an NAL exceedance. Natural background pollutants include those substances that are naturally occurring in soils or groundwater that have not been disturbed by industrial activities. Natural background pollutants do not include legacy pollutants from earlier activity on a site, or pollutants in run-on from neighboring sources which are not naturally occurring. Dischargers are not required to reduce concentrations for pollutants in the effluent caused by natural background sources if these pollutants concentrations are not increased by industrial activity.

The 2008 MSGP Fact Sheet states that the background concentration of a pollutant in runoff from a non-human impacted reference site in the same watershed must be determined by evaluation of ambient monitoring data or by using information from a peer-reviewed publication or a local, state, or federal government publication specific to runoff or storm water in the immediate region. Studies that are in other geographic areas, or are clearly based on different topographies or soils, are not sufficient to meet this requirement. When such data is not available, and there are no known sources of the pollutant, the background concentration should be assumed to be zero.

In cases where historic monitoring data from a site are used for generating a natural background concentration, and the site is no longer accessible or able to meet reference site acceptability criteria, the Discharger must submit documentation (e.g., historic land use maps) indicating the site did meet reference site criteria (such as indicating the absence of human activity) during the time data collection occurred.

Once the Level 2 ERA Technical Report, including a Natural Background Demonstration meeting the conditions in Section XII.D.2.c of this General Permit is certified and submitted via SMARTS, the Discharger is no longer responsible for the identified background parameters(s) in the corresponding drainage area(s). A Discharger that submits this type of demonstration will

remain with Level 2 status but is not subject to additional ERAs unless directed by the Regional Water Board.

c. Level 2 ERA Implementation Extension

The State Water Board recognizes that there may be circumstances that make implementation of all necessary actions required in the Level 2 ERAs by the permitted due dates infeasible. In such circumstances a Discharger may request additional time by submitting a Level 2 ERA Implementation Extension. The Level 2 ERA Implementation Extension will automatically allow Dischargers up to an additional six (6) months to complete the tasks identified in the Level 2 ERA Action Plans while remaining in compliance with this General Permit. The Level 2 ERA Implementation Extension is subject to Regional Water Board review. If additional time is needed beyond the initial six (6) month extension, a second Level 2 ERA Implementation Extension may be submitted but is not effective unless it is approved by the Water Board.

L. Inactive Mining Operations

Inactive mining sites may need coverage under this General Permit. Inactive mining operations are mining sites, or portions of sites, where mineral mining and/or dressing occurred in the past with an identifiable Discharger (owner or operator), but are no longer actively operating. Inactive mining sites do not include sites where mining claims are being maintained prior to disturbances associated with the extraction, beneficiation, or processing of mined materials. A Discharger has the option to certify and submit via SMARTS that its inactive mining operations meet the conditions for an Inactive Mining Operation Certification in Section XIII of this General Permit. The Discharger must have a SWPPP for an inactive mine signed (wet signature with license number) by a California licensed professional engineer. The Inactive Mining Operation Certification in this General Permit is in lieu of performing certain identified permit requirements. This General Permit requires an annual inspection of an inactive mining site and an annual re-certification of the SWPPP. Any significant updates to the SWPPP shall be signed (wet signature and license number) by a California license professional engineer. The Discharger must certify and submit via SMARTS any significantly revised SWPPP within 30 days of the revision(s)

M. Compliance Groups and Compliance Group Leaders

Group Monitoring, as defined in the previous permit, has been eliminated in this General Permit and replaced with a new compliance option called Compliance Groups. The Compliance Group option differs from Group Monitoring as it requires (1) all Dischargers participating in a Compliance Group (Compliance Group Participants) sample two QSEs each year, (2) the Compliance Group Leader to inspect each Participant's facility within each reporting year, (3) the Compliance Group Leader must complete a State Water Board sponsored or approved training program for Compliance Group Leaders, and (4) the Compliance Group Leader to prepare Consolidated Level 1 ERA Reports, and individual Level 2 ERA Action Plans and Technical Reports. The Compliance Group option is similar to Group Monitoring as it retains a mechanism that

allows Dischargers of the same industry type to comply with this General Permit through shared resources in a cost saving manner.

This General Permit emphasizes sampling and analysis as a means to evaluate BMP performance and overall compliance, and the significantly reduced sampling requirements previously afforded to Group Monitoring Participants (two samples within a five-year period) does not provide the necessary information to achieve these goals. However, a moderate reduction in sampling requirements is included as an incentive for Compliance Group Participants while concurrently requiring sufficient individual facility sampling data to determine compliance. A Compliance Group Leader is required to provide the necessary sampling training and guidance to the Compliance Group Participants. This additional training requirement will increase sampling data quality that will offset the reduced sampling frequency for Compliance Groups.

Participation in Compliance Groups will provide additional cost savings for Dischargers in the preparation of the Consolidated Level 1 ERA Reports, and for Compliance Group Leader assistance in preparing the Level 2 ERA Action Plans and the individual Level 2 ERA Technical Reports. It is likely that many of the pollutant sources causing NAL exceedances, and the corresponding BMP cost evaluation and selection, when appropriate, will overlap for groups of facilities in a similar industry type. When these overlaps occur, a Compliance Group Leader should be able to more efficiently evaluate the pollutant sources and BMP options, and prepare the necessary reports.

The State Water Board believes that it is necessary for Compliance Group Leaders to have a higher level of industrial storm water compliance and training experience than the expectations of a QISP. Many stakeholder comments on this General Permit suggested various certifications to provide this higher level of experience; however, the State Water Board believes a process similar to the Trainer of Record process for the Construction General Permit training program will develop Compliance Group Leaders with the appropriate level of experience to fulfill the necessary qualifications.

The intent of the Compliance Groups is to have only one or a small number of Compliance Groups per industrial sector. The process for becoming a QISP trainer and/or a Compliance Group Leader is purposely similar to the Construction General Permit trainer of record process for consistency within storm water regulatory leaders. The formal process to qualify to conduct trainings for QISPs and/or to be a Compliance Group Leader will include the submittal of a statement of qualifications for review, a review fee, completion of an exam and training specific to this role. For more information see the Construction General Permit trainer of record process: <http://www.casqa.org/TrainingandEducation/ConstructionGeneralPermitTrainingQSDQSPToR/tabid/205/Default.aspx>

After the initial Compliance Group registration, Compliance Group Leaders are required to submit and maintain their list of Compliance Group Participants via SMARTS. There are no additional administrative documents required. The previous permit required group leaders to provide annual group evaluation reports and a letter of intent to continue group monitoring. The State Water Board found these items to be resource intensive and placed an unnecessary administrative burden on group leaders. The

Compliance Group requirements in this General Permit reduces the administrative burden on both the Compliance Group Leaders and Water Board staff.

The State Water Board's intent for the effluent data, BMP selection, cost, and performance information, and other industry specific information provided in Compliance Group reports is for evaluation of sector-specific permitting approaches and the use of NALs in the next reissuance of this General Permit.

N. Annual Evaluation

Federal regulations require NPDES industrial storm water Dischargers to evaluate their facility and SWPPP annually. Typically this requires an inspection of the facility to ensure: (1) the SWPPP site map is up to date, (2) control of all potential pollutant sources is included in the SWPPP, and (3) sampling data and visual observation records are used to evaluate if the proper BMPs are being implemented. As Dischargers are required to conduct monthly visual observation that partially overlap with the actions required by the annual evaluation requirements, Dischargers may perform the annual evaluation inspection concurrent with a monthly visual observation.

O. Annual Report

All Dischargers shall certify and submit via SMARTS an Annual Report no later than July 15 following each reporting year. The reporting requirements for this General Permit's Annual Report are streamlined in comparison to the previous permit. The Annual Report now consists of two primary parts: (1) a compliance checklist indicating which permit requirements were completed and which were not (e.g., a Discharger who completes the required sampling of four QSEs during the reporting year, versus a Discharger who is only able to sample two QSEs during the reporting year), and (2) an explanation for items on the compliance checklist that were determined incomplete by the Discharger. Unlike the previous permit, the Annual Report does not require Dischargers to provide the details of each visual observation (such as name of observer, time of observation, observation summary, corrective actions, etc.) or provide the details of the Annual Comprehensive Site Evaluation. Dischargers, however, continue to be required to retain those records and have them available upon request. The Annual Report is further simplified through the immediate electronic reporting via SMARTS of sampling data and copies of the original laboratory reports instead of such information being included in the Annual Report.

P. Conditional Exclusion - No Exposure Certification (NEC) Requirements

This General Permit's conditional exclusion requirements are similar to the requirements provided in 40 C.F.R. section 122.26(g)(3). Clarifications were added in this General Permit, however, to the types of "storm resistant shelters" and the periods when "temporary shelters" may be used in order to avert regulatory confusion. California does not have operating coal power plants, which are a major contributor to acid rain elsewhere in the United States. California does have nonpoint sources or atmospheric deposition that may locally impact the pH of the rain water, however this is

not categorized as acid rain as referred to by the U.S. EPA for the NEC coverage requirements. The No Exposure Guidance Document¹⁵ developed by the U.S. EPA mentions acid rain as a potential source of contaminants to consider for NEC coverage. The acid rain leachate language was not included in this General Permit's Appendix 2 to clarify that Dischargers may qualify for NEC coverage, even if the facility has metal buildings or structures.

The Discharger shall certify and submit complete PRDs for NEC coverage via SMARTS. Based upon the State Water Board's experience with reissuing and implementing the 2009 Construction General Permit, the transition for existing Dischargers to register under this new General Permit is staff resource intensive. The State Water Board staff is available to assist Dischargers requiring assistance with enrolling under this General Permit, both for NOI coverage and NEC coverage. The State Water Board has also experienced that more time is needed for its staff to assist Dischargers registering for NEC coverage. To provide better customer service to all Dischargers, three months have been added to the NEC coverage PRD submittal schedule for new and existing Dischargers (Section II.B.4 of this General Permit, extending the NEC coverage registration date to October 1, 2015).

Dischargers must annually inspect their facility to ensure continued compliance with NEC requirements, and annually re-certify and submit an NEC via SMARTS. Based on its regulatory experience, the State Water Board has determined that a five-year NEC re-certification period is inadequate. A significant percentage of facilities may revise, expand, or relocate their operations in any given year. Furthermore, a significant percentage of facilities experience turnover of staff knowledgeable of the NEC requirements and limitations. Accordingly, the State Water Board believes that annual NEC evaluation and re-certification requirements are appropriate to continually assure adequate program compliance.

Q. Special Requirements - Plastic Materials

Water Code section 13367 requires the Water Boards to implement measures that control discharges of preproduction plastic from point and nonpoint sources. The State Water Board intends to use this General Permit to regulate discharges of preproduction plastics from areas of facilities that are subject to this General Permit. A Regional Water Board may designate facilities, or areas of facilities, that are not otherwise subject to this General Permit, pursuant to Section XIX.F. For example, a Regional Water Board may designate Plastic Materials handling areas of a transportation facility that are not associated with vehicle maintenance as requiring coverage under this General Permit.

Preproduction plastics used by the plastic manufacturing industry are small in size and have the potential to mobilize in storm water. Preproduction plastic washed into storm water drains can move to waters of the United States where it contributes to the growing problem of plastic debris in inland and coastal waters. Water Code section 13367

¹⁵ U.S. EPA. Guidance Manual for Conditional Exclusion from Storm Water Permitting Based On "No Exposure" of Industrial Activities to Storm Water. Web. June 2000. < <http://www.epa.gov/npdes/pubs/noxguide.pdf>>. [as of January 31, 2014].

outlines five mandatory BMPs that are required for all facilities that handle preproduction plastic. These mandatory BMPs are included in this General Permit.

The State Water Board has received comments regarding the Water Code requirements for Plastics Facilities to install a containment system for on-site storm drain locations that meet 1mm capture and 1-year 1-hour storm flow requirement standards. As a result, this General Permit includes the option under Water Code section 13367 that allows a plastics facility to propose an alternative BMP or suite of BMPs that can meet the same performance and flow requirements as a 1mm capture and 1-year 1-hour storm flow containment system standards. These alternative BMPs are to be submitted to the Regional Water Board for approval. This alternative is intended to allow the facility to develop BMPs that focus on pollution prevention measures that can perform as well as, or better than, the containment system otherwise required by the statute.

The State Water Board also includes two additional containment system alternatives in this General Permit that are considered to be equivalent to, or better than, the 1mm capture and 1-year 1-hour storm flow requirements:

- An alternative allowing plastic facilities to implement a suite of eight BMPs addressing the majority of potential sources of plastic discharges. This suite of BMPs is based on industry and U.S. EPA recommendations and Water Board experience with storm water inspections, violations, and enforcement cases throughout California.
- An alternative allowing a facility to operate in a manner such that all preproduction plastic materials are used indoors and pose no potential threat for discharge off-site. The facility is required to notify the Regional Water Board of the intent to seek this exemption and of any changes to the facility or operations that may disqualify the facility for the exemption. The exemption may be revoked by the Regional Water Board at any time.

Plastics facilities may use preproduction plastic materials that are less than 1mm in size, or produce materials, byproducts, or waste that is smaller than 1mm in size. These small size materials will pass through the 1mm capture containment system required by Water Code section 13367. Plastics facilities with sub-1mm materials must design a containment system to capture the smallest size material onsite with a 1-year 1-hour storm flow requirement, or propose alternative BMPs for Regional Water Board approval that meet the same requirements.

The remaining BMPs required by Water Code section 13367 are consistent with recommendations for handling and clean-up of preproduction plastics in the American Chemistry Council publication, *Operation Clean Sweep* and U.S. EPA's publication *Plastic Pellets in the Aquatic Environment: Sources and Recommendations*. The State Water Board believes that the entire approach in this General Permit for plastic materials is consistent with Water Code section 13367.

R. Regional Water Board Authorities

The Regional Water Boards retain discretionary authority over many issues that may arise from industrial discharges within their respective regions. This General Permit

emphasizes the authority of the Regional Water Boards over specific requirements of this General Permit that do not meet region-specific water quality protection regulatory needs.

S. **Option in the Notice of Non-Applicability**

1. General

Entities that operate facilities generating storm water associated with industrial activities that is not discharged to waters of the United States are not required to obtain General Permit coverage. Entities that have contacted the Water Boards to inquire what is necessary to avoid permit coverage have received inconsistent guidance. This has resulted in regulatory inconsistency and uncertainty as to whether they are in compliance if their industry operates without General Permit coverage. Depending upon how each Regional Water Board handles "No Discharge" claims, some facilities with advanced containment design may be required to obtain General Permit coverage while other facilities with less advanced containment design may be allowed to operate without General Permit coverage. Some stakeholders have complained that this type of regulatory inconsistency puts some facilities at an economically-competitive disadvantage given the costs associated with permit compliance.

U.S. EPA regulations do not provide a design standard, definition, or guidance as to what constitutes "No Discharge." Unlike Conditional Exclusion requirements, U.S. EPA regulations do not require an entity to submit technical justification or certification that a facility does not discharge to waters of the United States (U.S.). Therefore entities have previously been allowed to self-determine that their facility does not discharge to water of the U.S. when using any containment design standard. The State Water Board does not have available information showing that most entities have adequately performed hydraulic calculations to determine the frequency of discharge corresponding to their containment controls or have had these hydraulic calculations reviewed or completed by a California licensed professional engineer. Although U.S. EPA makes clear that an unpermitted discharge to waters of the U.S. is a violation of the CWA, this leaves regulatory agencies with the very difficult task of knowing when any given facility discharges in order to carry-out enforcement actions.

In 1998, the Water Code was amended to require entities who are requested by the Water Boards to obtain General Permit coverage, but that have a valid reason to not obtain General Permit coverage, to submit a Notice of Non-Applicability (NONA). (Wat. Code, § 13399.30, subd. (a)(2)). The NONA covers multiple reasons why an entity is not required to be permitted including (1) facility closure, (2) not the legal owner, (3) incorrect SIC code, (4) eligibility for the Conditional Exclusion (No Exposure Certification), and (5) the facility not discharging to water of the U.S. ("No Discharge"). The previous permit contained definitions, requirements, and guidance that entities may reference to determine whether they are eligible to select any of the first four NONA reasons for not obtaining General Permit coverage. However, neither the previous permit nor the Water Code provide definitions, requirements,

and guidance for entities to determine whether they are eligible to indicate “No Discharge” on the NONA as a reason for not obtaining General Permit coverage.

This General Permit addresses and resolves the issues discussed above by establishing consistent, statewide eligibility requirements in Section XX.C for entities submitting NONAs indicating “No Discharge.” When requested by the Water Boards to obtain General Permit coverage, entities must meet these “No Discharge” eligibility requirements or obtain General Permit coverage. The Water Boards retain enforcement authority if a facility subsequently discharges.

2. “No Discharge” Eligibility Requirements

The entity must certify submit in SMARTS a NONA Technical Report signed (wet signature and license number) by a California licensed professional engineer that contains the analysis and details of the containment design supporting the “No Discharge” eligibility determination. Because containment design will require hydraulic calculations, soil permeability analysis, soil stability calculations, appropriate safety factor consideration, and the application of other general engineering principles, state law requires the technical report to be signed (wet signature and license number) by a California licensed professional engineer.

The State Water Board has selected a containment design target that, as properly applied will result in few, if any, discharges. The facility must either be:

- a. Engineered and constructed to contain all storm water associated with industrial activities from discharging to waters of the United States. (The determination of what is a water of the United States can be complicated, and in certain circumstances, a discharge to groundwater that has a direct hydrologic connection to waters of the United States may constitute a discharge to a water of the United States.) Dischargers must base their information upon maximum historic precipitation event data (or series of events) from the nearest rain gauges as provided by the National Oceanic and Atmospheric Administration’s (NOAA) website, or other nearby precipitation data available from other government agencies. At a minimum, Dischargers must ensure that the containment design addresses maximum 1-hour, 24-hour, weekly, monthly, and annual precipitation data for the duration of the exclusion.

Design storm events are generally specified as a one-time expected hydraulic failure over a reoccurrence of years for a specified storm event. For example, if a design storm standard is a 100 year 24-hour event, then a facility’s containment system designed to contain the maximum volume of water would be expected to fall in 24 hours once every 100 years. Design standards vary dependent upon the regulatory program and the level of protection needed. Since California has considerable variations in climate/topography/soil conditions across the state, the “No Discharge” NONA eligibility requirements have been created so that each facility’s containment design can incorporate unique site specific circumstances to meet the requirement that discharges will not occur based upon past historical precipitation data. Facilities that are not designed to not meet the “No Discharge” eligibility requirements must obtain General Permit coverage.

- b. Located in basins or other physical locations that are not hydrologically connected to waters of the United States.

The State Water Board considered allowing Entities to review United States Army Corp of Engineer maps to determine, without a California licensed professional engineer, whether their facility location is within a basin and/or other physical location that is not hydrologically connected to waters of the United States. The State Water Board believes that this determination can be difficult in some cases, or is likely to be performed incorrectly. In addition, there may be areas of the state that are not hydrologically connected to waters of the United States, but are not on United States Army Corps of Engineer maps. Therefore, all "No Discharge" Technical Reports must be signed (wet signature and license number) by a California licensed professional engineer.

3. Additional Considerations

The "No Discharge" determination does not cover storm water containment systems that transfer industrial pollutants to groundwater. Entities must determine whether designs that incorporate infiltration may discharge to and contaminate groundwater. If there is a threat to groundwater, Entities must contact the Regional Water Boards prior to construction of infiltration design elements.

Entities that have not eliminated all discharges that are subject to General Permit coverage (NOI Coverage or NEC Coverage) are ineligible to submit NONAs indicating "No Discharge."

[Home](#) » [Illegal Dumping](#)

Illegal Dumping Resources

Illegal dumping is the act of disposing solid waste at a location that is not a permitted solid waste disposal facility and is usually done for economic gain. Illegal dumping poses significant social, environmental, and economic impacts statewide.

California local government spends tens of millions of dollars annually to remove illegally dumped materials, and private property owners incur significant costs to clean up illegal dumping. Illegal dump sites that are not abated often grow in size and can then become illegal disposal sites.

Local government tends to view illegal dumping as a litter/nuisance abatement issue, rather than a solid waste issue. Local responses vary greatly statewide, in terms of approach and level of activity. Local code enforcement plays a lead role in some communities, while public works departments have primary responsibility in others.

Local and State policing agencies will cite people caught illegally dumping, but those agencies are not usually responsible for cleanup programs. No single State or local agency is given responsibility for a comprehensive program to combat littering and illegal dumping, identified in the Penal Code as being punishable as infractions or misdemeanors. CalRecycle is responsible for investigation, cleanup, and enforcement of illegal solid waste disposal sites and shares this responsibility with local enforcement agencies.

In 2006 the California Integrated Waste Management Board (now CalRecycle) established a high-level State and local [illegal dumping enforcement task force](#) to assess the extent of the problem and develop recommendations to enhance the effectiveness of local and regional responses to the problem. The task force recommendations were presented in [March 2007](#) and staff analysis and recommendations on illegal dumping were presented in [December 2007](#). One of the recommendations was to develop a web-based illegal dumping resources toolbox for local government.

This illegal dumping resources toolbox has been developed by CalRecycle with the assistance of the illegal dumping enforcement task force. Based on the experiences of many local communities, combating illegal dumping includes four essential elements: [Prevention](#), [Abatement](#), [Cleanup](#) and [Enforcement](#) (PACE). The Toolbox is designed as a resource for local government to establish a new program or expand an existing program to be more comprehensive and effective. The New Mexico [How to Establish and Operate an Illegal Dumping Prevention and Cleanup Program](#) is an excellent resource.

In June 2013, the technical advisory committee agreed to develop a guidance document to address solid waste management in homeless encampments. CalRecycle staff completed the draft document in November 2013, and the document was approved by the technical advisory committee in March 2014. It was [added as a new section](#) to the toolbox in September 2014.

In December 2010, the task force was changed to a [technical advisory committee](#).

Program News...

→ Now available: [Homeless Encampment Reference Guide](#)

Last updated: October 22, 2018

Illegal Dumping Resources: <https://www.calrecycle.ca.gov/IllegalDump/>

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Prevention

Illegal dumping of materials such as large appliances, furniture, waste tires, computers, and household refuse is a problem in many California communities. Based on the experiences of many of those communities, prevention of illegal dumping before it happens in the first place and minimizing its recurrence if it does is the best strategy to combat illegal dumping.

By making legal disposal of materials convenient and illegal disposal inconvenient, the local costs of preventing illegal disposal are reduced. This page describes a variety of options for the prevention of illegal dumping.

- **[Solid Waste Codes, Ordinances and Permits](#)**
- **[Contracts and Licenses](#)**
- **[Alternative Waste Collection and Recycling Programs](#)**
- **[Minimizing Recurrence and Creating Awareness](#)**

Solid Waste Codes, Ordinances and Permits

Solid waste codes, ordinances, and permits are all effective tools in preventing illegal dumping. They can require permitting of waste management activities, establish mandatory refuse collection programs, set fines for illegal disposal offenses, require fencing of vacant properties, and provide administrative abatement, settlement, and citation authority to local government. Many of these are outlined in more detail in the [abatement](#) section.

The US Environmental Protection Agency identifies [core elements of an effective ordinance](#) as part of a comprehensive prevention program in its [Illegal Dumping Prevention Guidebook](#).

Local Illegal Dumping Ordinances

Many local governments have supplemented the [California Penal Code](#) (Section 374 et seq.) on illegal dumping with local ordinances. Butte County's [Illegal Dumping Ordinance](#) set the stage for a 78 percent reduction in the number of illegal dumping sites in the county in 2006. Some interesting aspects of its ordinance are:

- **Expands the definition of illegal dumping:** Butte County's ordinance has a "Cradle to Grave" determination for solid waste. It sends a stern message: "It's your trash and you're responsible to see that it is disposed of legally."
- **Provides administrative abatement, settlement and citation authority to program staff:** Butte County's ordinance characterizes illegal dumping as a misdemeanor offense, and established an administrative order/hearing process to minimize the impact on the courts. It established fines ranging from \$100-\$300.

Mandatory Refuse Collection Ordinances

Most jurisdictions have local ordinances that require property owners or occupants to subscribe to a routine refuse collection. The absence of mandatory refuse collection ordinances makes the burial of wastes on a property or disposal of waste along the highway an attractive option to the individual who doesn't want to pay transportation or disposal costs for their waste. Examples of these ordinances include:

- Contra Costa County Code Title 4, Chapter 418-6
- Kern County Code Title 8, Chapter 8.28.060
- Sacramento County Code Title 6, Chapter 6.20.120

Existing Codes and Permits

Existing codes and required permits can be adapted to result in sites being maintained in a clean condition and/or waste materials being properly disposed.

- **Zoning Codes:** Define the type, amount and visibility of materials that can be stored on private property.
- **Land Use Permits:** Require a certain number of waste containers on a property and that a property is maintained in a clean condition.
- **Solid Waste Facility Permit:** May incorporate requirements for the permit holder to routinely remove all illegally dumped materials on specified routes to the solid waste facility or add lighting to poorly lit or remote areas that experience midnight dumping.
- **Health and Sanitation Codes:** Although State law mandates that vehicles transporting waste to landfills and transfer stations be effectively covered (Vehicle Code Sections 23114-23115), jurisdictions may add a provision (Lake County Code Chapter 9, Article 1, Section 9-2.3) to their local code to charge a non-tarping fee in addition to the regular tipping fee for inadequately covered loads. Vehicles arriving at the Marina Landfill in Monterey County that are not properly secured are subject to a surcharge of double the disposal fee.

Contracts and Licenses

Solid waste collection is the responsibility of local government and may be provided by specific operating programs within government agencies, private collectors, special solid waste districts, special waste collectors, or a combination of the authorities.

Franchise Waste Hauler Agreements

A franchise agreement is commonly utilized when a local government opts to arrange for solid waste management services rather than providing them directly. Under a franchise waste collection agreement a jurisdiction contracts with waste haulers to provide waste collection services within that jurisdiction. A franchise agreement can be either exclusive to one company or non-exclusive allowing several companies to provide services within that jurisdiction and may include residential and/or commercial service. Under these agreements, waste haulers abide by specific service standards, rate control measures, and reporting requirements. A franchise agreement works in combination with mandatory collection ordinance to reduce illegal dumping and assist the jurisdiction in meeting the State 50 percent diversion mandate by increasing convenient collection, recycling; and legal disposal; requiring better reporting; and provided funding for additional recycling and educational programs. A franchise agreement may include special features, such as annual clean-up events and bulky item pick-up with the standard service.

Additionally, franchise agreements may include provisions that require the hauler to pick up materials illegally dumped along their geographically defined service routes (Example: El Dorado County).

Unregulated Refuse Service Providers

Unregulated refuse service providers, sometimes referred to as “mom-and-pops,” operate outside of exclusive franchise agreements and provide household clean-up services on an as-requested basis. They usually collect a fee from the individual requesting the service; clean-up materials from the house, garage, or yard; physically remove the waste from a property; and place it in their own vehicles for transport and recycling or legal disposal. Refuse service providers also may include installers, landscapers, and other businesses that may transport materials incidental to their primary business. Some of them sometimes increase their profit margin by illegally dumping the waste along a road or on a vacant lot.

Some counties and cities require a special business license or registration for these providers and provide a convenient listing with phone numbers. The Hawthorne Municipal Code has provisions for exemption from necessity of refuse service. Others, like San Luis Obispo County, exempt these businesses, including professional gardeners, clean-up people, etc. from some permit requirements.

Unregulated refuse service provider enforcement programs work in tandem with the evidence of ownership rules to provide relief to customers and other property owners who are innocent victims of illegal dumping. Some jurisdictions minimize this practice by enforcing the exclusivity clause of their franchise agreement.

Waste Tire Hauler

State law regulates the waste tire handling and hauling industry. This program can be funded by CalRecycle and enforced by local staff, or CalRecycle staff can enforce the regulations if the local jurisdictions so choose.

Alternative Waste Collection and Recycling Programs

Communities have responded with various types of collection activities and specialized programs for some items that are illegally dumped. Establishing a collection infrastructure that is free, easy, and convenient helps residents to do the right thing.

Free Residential Pickup Days/Vouchers

Many municipalities will provide a limited number of additional residential refuse pickups on an annual basis or an annual pickup service to specific geographic areas at no additional charge to the resident. Local jurisdictions may also provide vouchers for free disposal to private property owners who are the victims of an illegal dumping action.

Multi-Family Unit Bulky Waste Collection Program

Some jurisdictions, such as City of Los Angeles, have instituted a program that provides on-call pickup of bulky materials for owners of multiple family residential dwellings. The property owner pays an additional monthly fee for this service and the result is fewer bulky wastes that are left at a curb by the departing tenants.

Electronic Waste Collection

E-waste is a popular, informal name for electronic products nearing the end of their "useful life." Many types of electronic products used in the workplace and homes contain hazardous substances like lead and mercury and may not be discarded in the regular trash. This "disposal ban" can lead to instances of illegal disposal if appropriate low-cost recycling opportunities are not available or well understood. California enacted landmark legislation to develop a statewide e-waste recovery infrastructure and in 2005 began collecting a fee at the point of sale for certain products, specifically video display devices such as televisions and computer monitors. Qualified e-waste collectors and recyclers may be reimbursed from the fund established from the recycling fees for their costs of managing covered electronic wastes. A CalRecycle directory includes a database searchable by county that can be advertised by local governments to facilitate recycling and proper disposal.

Additional consumer information is available at eRecycle.org to assist in explaining the fee and other aspects of the program. Local governments and community partners can also host e-waste collection events to help prevent illegal disposal by giving residents a convenient means of managing unwanted electronics. It is important that e-waste recovery activities be conducted only by authorized handlers who follow documentation and material management standards applicable to this regulated waste stream.

Used Tires

California has an estimated 250,000 waste tires that have been illegally dumped or stockpiled. These stockpiles pose a potential threat to public health, safety, and the environment. CalRecycle is charged with the task of implementing tire disposal regulations and reducing the threat waste tires pose to public health and safety and the environment. CalRecycle provides a searchable list of facilities that are permitted to accept waste tires.

Green Waste Collection

Some jurisdictions provide separate containers for residential green waste, and some are providing collection sites for green wastes from landscape gardening businesses. Piles of green waste that are illegally dumped on properties will eventually decompose, but they can quickly become an identified location for dumping of other wastes.

Used Lubricating Oil and Filter Collection

Used motor oil and filters are also banned from the trash in California. CalRecycle's Used Oil Recycling Program established a statewide network of more than 2,500 auto parts stores and other facilities that will pay the public to recycle used oil and filters. Many communities partner with the local auto parts stores to host special collection events. However, since used oil is not banned from the trash in other states and countries, people are often confused about the law and illegally dump the oil and filters. Monterey County included filter collection events as part of a larger illegal dumping awareness campaign. A variety of prevention and outreach materials are available on CalRecycle's website for use by local governments in promoting the proper disposal of used oil and filters and preventing illegal disposal. CalRecycle also provides a searchable database that locates certified used oil recycling centers by city, county, or ZIP code.

Household Hazardous Waste Collection

Household hazardous waste includes many common products used in our daily lives which contain potentially hazardous ingredients like lead and mercury and may not be discarded in the regular trash. This disposal ban can lead to instances of illegal disposal if appropriate low-cost recycling opportunities are not available or well understood. Publicizing convenient collection locations can be effective in minimizing illegal dumping of this waste.

Retail Take-It-Back programs take back from the consumer wastes barred from landfills, such as cell phones, batteries, and fluorescent lamps, for recycling, reuse, or proper disposal. Take back programs can be run by government or private industry. Some retail programs take back from the consumer wastes barred from landfills, such as cell phones, batteries, and fluorescent lamps, for recycling, reuse, or proper disposal. Take back programs can be run by government or private industry. Visit Earth 911 to learn where to drop off banned items. More information is available at the Department of Toxic Substances Control regarding these wastes. Visit Earth 911 to learn where to drop off banned items. More information is available for retailers interested in becoming a Take-It-Back partner.

Minimizing Recurrence and Creating Awareness

Illegal dumping behavior is also impacted by what's going on in the neighborhood, ease of access to areas, and time of day. Local governments can take measures to impact those factors and reduce the ability to conveniently dispose of trash illegally. It's also important to inform people about the penalties, as well as create the impression that non-compliance will be detected and violators will be caught. The Sacramento Regional Solid Waste Authority completed a comprehensive report – Area-Wide Illegal Dumping Analysis for City of Sacramento and County of Sacramento. The report can easily be used by other local governments that seek a full jurisdictional perspective and list of recommendations to implement.

Free Collection or Amnesty Days

Local jurisdictions often provide property owners with a limited number of annual free collection days or pick-up appointments with a minimal fee where all solid wastes are accepted. This service is also often included as part of a solid waste collection franchise agreement.

Public amnesty events for specific materials, such as up to 20 waste tires, allow citizens to bring waste tires to convenient locations for proper management--up to twice per month per location--or provide a coupon that allows citizens to bring in waste tires on specified days. Tire amnesty events or round-ups can be funded with state grants, and are not authorized end-use facilities for registered used and waste tire haulers and other tire-related businesses.

Signs

Residents are sometimes unaware that dumping is a crime and punishable by fines or prosecution. Use of "No Dumping" signs can be effective in preventing dumping and creating awareness of ordinances. Signs can specify fines and penalties or indicate that the area is under surveillance. The City of Sacramento used door-hanger signs to inform residents of their illegal dumping program and how to report an incident. Signage can also be included on county or hauler vehicles.

Vehicle-Related Programs

Solid Waste Vehicle Inspection or Load Covering Programs: Some local programs work with the CHP to increase enforcement of this State law. Other jurisdictions enforce the law by inspecting the vehicles (Sacramento County Code Title 6, Chapter 6.2, Section 6.20.280) when they arrive at a solid waste disposal facility. Offenders may be subject to a surcharge or fee if they arrive at a disposal facility without a tarp covering the load.

Fencing and Barriers

Barriers or fencing are installed to prohibit vehicle entry and/or make dumping more difficult. Local ordinances (Contra Costa County Code, Title 7, Chapter 720-4.802) also include authority for the illegal dumping program staff to install the fencing or barriers on private property and recover the costs through a tax lien. State grants can also cover the costs for security measures such as fences, barriers, and warning signs.

Lighting

Lighting can be an effective preventive measure in poorly lit or remote areas that experience midnight dumping. Lighting increases the visibility of the crime and the chances of the offenders being caught. Lighting may be required as part of the land use permit, may be required as part of an administrative settlement, or may be initiated by the property owner as a clean-up cost saving measure.

Landscaping and Beautification

Sites need to be maintained so that they do not attract illegal dumping. These efforts can range from simply cutting grass and pulling weeds to planting trees along the boundaries. Whether initiated by the private property owner, local government, or community organizations, vacant lots that are maintained in an attractive manner send a message that illegal dumping is not an acceptable practice in that neighborhood.

Surveillance Cameras

When word gets out in the community about cameras mounted near illegal dumping hot spots, they can be an illegal dumping deterrent and can aid in enforcement. In Sonoma County, to protect privacy and minimize the perception of government as “Big Brother,” cameras are trained on the dumping area and do not photograph passing cars or pedestrians. The county also sent letters to residents within a quarter-mile area advising them of the program. More information is provided in the Enforcement section of this Toolbox.

Reward Programs

Reward programs can effectively reduce illegal dumping if publicized in areas known for chronic illegal dumping. Since the launch of a Sacramento County program, more than a dozen residents have received a \$250 reward for providing information that led to citation of people for illegal dumping. Complaints about illegally dumped piles in the community have drastically reduced.

Last updated: November 6, 2018

Illegal Dumping Resources: <https://www.calrecycle.ca.gov/IllegalDump/>

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Agenda Item VII

SOLID WASTE REGULATORY UPDATES



RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

February 6, 2019

The Honorable Bob Wieckowski
Chair, Senate Budget Subcommittee
No. 2 on Resources, Environmental Protection,
Energy & Transportation
State Capitol, Room 4085
Sacramento, CA 95814

RE: Proposed 2019-2020 Greenhouse Gas Reduction Fund Allocations

Dear Senator Wieckowski:

On behalf of the Rural County Representatives of California (RCRC), I offer RCRC's recommendations on specific allocations from the Greenhouse Gas Reduction Fund (GGRF) included in the Governor's January 2019-20 proposed Budget. RCRC is an association of thirty-six rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of the member counties.

RCRC strongly supports the Governor's \$200 million proposed allocation to the California Department of Forestry and Fire Protection (CAL FIRE) for forest health, resilience, and wildfire prevention programs, including prescribed burn projects. This allocation is consistent with the funding outlined in last year's Senate Bill 901 (Dodd) to aid in implementing the State's Forest Carbon Plan and Strategic Fire Plan, as well as the new forest health provisions passed as part of SB 901 to help slow and prevent future catastrophic wildfire events.

RCRC member counties contain much of California's forested lands, including more than 70 percent of the State's national forest lands. Wildfire risk is no longer just a concern in our remote, rural areas, but is becoming a wider public safety concern as the wildland urban interface spreads over larger areas of the State and beyond forested areas. Recent years have shown that a combination of wildfire prevention, forest management, fuels treatment, and emergency preparedness measures will be vital to California's communities in the wildland urban interface in order to mitigate the type of catastrophic damage demonstrated by the Camp, Woolsey, and Carr Fires, to name just a few.

Not only are these wildfires a threat to public safety, but they are an imminent threat to the State's greenhouse gas (GHG) emissions reduction and carbon sequestration goals. The California Air Resources Board (ARB) estimates that wildfires contribute more than half

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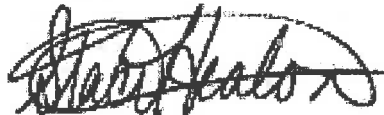
of California's annual black carbon emissions, a number that will continue to increase as the State's forests continue to burn.¹ As we continue to see expanded wildfires into more urbanized areas, reduction of GHG and other criteria pollutant emissions from wildfires will become even more vital to public health. In light of this, RCRC strongly supports the Governor's proposed allocation to CAL FIRE.

RCRC also supports the GGRF allocations for vital agricultural programs, including \$18 million for the Healthy Soils Program and methane reduction programs to help the agricultural industry with equipment replacements and upgrades. Both programs provide critical incentives and assistance to the agricultural industry to sustainably reduce GHG emissions from agricultural operations, which may not be feasible without the financial assistance this funding enables.

Finally, RCRC would recommend a more robust allocation for the California Department of Resources Recycling and Recovery (CalRecycle), which is currently proposed for \$25 million. Targeting 50 percent organic diversion from landfills by 2020 has been a linchpin of the State's efforts to reduce short-lived climate pollutants, a critical component of California's Assembly Bill 32 GHG emissions reduction goals. However, the infrastructure capacity to process this amount of organics currently does not exist, and a higher level of grant and incentive money will be necessary to assist the development of these new costly facilities if the state expects to meet its 2020 goal. RCRC would appreciate reconsideration of the CalRecycle allocation to ensure the State meets its ambitious and fast-approaching 2020 organics goal.

Please do not hesitate to contact me if you should have any questions or concerns regarding RCRC's recommendations on this item.

Sincerely,



STACI HEATON
Regulatory Affairs Advocate

cc: The Honorable Holly J. Mitchell, Chair, Senate Budget and Fiscal Review Committee
Members of the Senate Budget Subcommittee No. 2 on Resources,
Environmental Protection, Energy & Transportation
Consultant, Senate Budget Subcommittee No. 2 on Resources,
Environmental Protection, Energy & Transportation

¹ California Air Resources Board. (2015) Draft Short-Lived Climate Pollutant Reduction Strategy, Appendix A: California SLCP Emissions. Retrieved from <http://www.arb.ca.gov/cc/shortlived/2015appendixa.pdf>.



Short-lived Climate Pollutants (SLCP): Organic Waste Reductions

Proposed Regulation Text

The following denotes proposed text:

~~Strikethrough~~ = deletions of existing text

Underline = additions to existing text

~~Dotted Underline = Title 14, Division 7, Chapter 9, as proposed in final version of AB 901 rulemaking pending OAL review and approval~~

~~Double Underline = Additions to Title 14, Division 7, Chapter 9, as proposed in final version of AB 901 rulemaking pending OAL review and approval~~

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¹The dotted underline text for Title 14 Division 7 chapter 9 denotes text from a separate rulemaking package pending OAL review (AB 901 Rulemaking). That text is not part of this rulemaking and not subject to comments under this rulemaking. The text denoted by double underline in that chapter is part of this rulemaking and comments may be submitted on that portion of the text on this page.

**TITLE 14: NATURAL RESOURCES
DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY**

Chapter 12: Short-lived Climate Pollutants

General Provisions

Section 18981. 1. Scope of Chapter

(a) This chapter establishes the regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to achieve the organic waste disposal reduction targets codified in Section 39730.6 of the Health and Safety Code and Chapter 13.1 of Division 30 of the Public Resources Code.

(b) This chapter includes:

(1) Requirements for jurisdictions to adopt and implement organic waste collection services and to develop edible food recovery programs;

(2) Limitations on local ordinances, policies, and initiatives that are in conflict with the Integrated Waste Management Act and specifically Chapter 13.1 of Division 30 of the Public Resources Code;

(3) Requirements for the procurement of recovered organic waste products; and,

(4) Minimum standards for reporting, enforcement, and penalties to be implemented by jurisdictions and the Department.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

Section 18981. 2. Implementation Requirement on Jurisdictions

(a) By January 1, 2022, a jurisdiction shall adopt enforceable ordinance(s), or similarly enforceable mechanisms that are consistent with the requirements of this chapter, to mandate that organic waste generators, haulers, and other entities subject to the requirements of this chapter that are subject to the jurisdiction's authority comply with the requirements of this chapter.

(b) A jurisdiction may designate a public or private entity to fulfill its responsibilities under this chapter. A designation shall be made through any one or more of the following:

(1) Contracts with haulers or other private entities; or,

(2) Agreements such as MOUs with other jurisdictions, entities, regional agencies as defined in Public Resources Code Section 40181, or other government entities, including environmental health departments.

(c) Notwithstanding subdivision (b) of this section, a jurisdiction shall remain ultimately responsible for compliance with the requirements of this chapter.

(d) If a jurisdiction designates another entity as allowed in subdivision (b) of this section, the jurisdiction shall include copies of all agreements and contracts in the Implementation Record Required by Section 18995.2 of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

Article 1. Definitions

Section 18982. Definitions

(a) The following definitions shall govern the provisions of this chapter:

(1) "Activities that constitute landfill disposal" are activities described in subdivision (a) of Section 18983.1.

(2) "Alternative daily cover (ADC)" has the same meaning as in Section 20690 of Title 27 of the California Code of Regulations (CCR).

(3) "Alternative intermediate cover (AIC)" has the same meaning as in Section 20700 of Title 27 of the California Code of Regulations

(4) "Biosolids" has the same meaning as Section 17852(a)(9) of this division.

- 1 (5) "Blue container" means a container where the lid of the container is entirely blue in color. Hardware such
2 as hinges and wheels on a blue container may be a different color.
3 (6) "Commercial business" means a firm, partnership, proprietorship, joint- stock company, corporation, or
4 association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling.
5 (A) A multifamily residential dwelling that consists of fewer than five units is not a commercial business
6 for purposes of this chapter.
7 (7) "Commercial edible food generator includes a Tier One or a Tier Two commercial edible food generator
8 as defined in subdivisions (a)(73) and (a)(74) of this section.
9 (8) "Community composting" means any activity that composts green material, agricultural material, food
10 material, and vegetative food material, alone or in combination, and the total amount of feedstock and
11 compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in
12 Section 17855(a)(4).
13 (9) "Compliance Review" means a review of records by a jurisdiction or the Department to determine
14 compliance with subscribing to an organic waste collection service as required by this chapter
15 (10) "Compost" has the same meaning as in Section 17896.2(a)(4) of this division.
16 (11) "Compostable material" has the same meaning as in Section 17852(a)(11).
17 (12) "Compostable material handling operation" or " facility" has the same meaning as in Section
18 17852(a)(12).
19 (13) "Consumer" has the same meaning as in Section 113757 of the Health and Safety Code.
20 (14) "Container contamination" or "contaminated container" means a container, regardless of color, that
21 contains prohibited container contaminants as defined in subdivision (a)(55) of this section.
22 (15) "Designee" means an entity that a jurisdiction contracts with or otherwise arranges to carry out any
23 responsibilities of this chapter, as authorized in Section 18981, 2 of this chapter. A designee may be a
24 government entity, a hauler, a private entity, or a combination of those entities.
25 (16) "Diesel gallon equivalent" means the amount of renewable gas transportation fuel that has the
26 equivalent energy content of one gallon of conventional diesel.
27 (17) "Direct service provider" means a provider that contracts with a jurisdiction to provide services.
28 (18) "Edible food" means unsold or unserved food that is fit for human consumption, even though the food
29 may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.
30 For the purposes of these regulations, "edible food" is not solid waste if it is recovered and not discarded.
31 (19) "Enforcement action" means an action of a jurisdiction or the Department to ensure compliance with
32 this chapter, including, but not limited to, issuing notices of violation, accusations, or other remedies.
33 (20) "Facility that recovers source separated organic waste" means a facility that handles source separated
34 organic waste separately from any other wastes as required in Section 17409.5.5 of this Division.
35 (21) "Food" has the same meaning as in Section 113781 of the Health and Safety Code.
36 (22) "Food employee" has the same meaning as in Section 113788 of the Health and Safety Code.
37 (23) "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.
38 (24) "Food recovery" means actions to collect and distribute food for human consumption which otherwise
39 would be disposed.
40 (25) "Food recovery organization" means an entity that primarily engages in the collection or receipt of
41 edible food from edible food generators and distributes that edible food to the public for consumption,
42 including, but not limited to:
43 (A) A food bank as defined in Section 113783 of the Health and Safety Code;
44 (B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and
45 (C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety
46 Code.
47 (26) "Food recovery service means a person or entity that collects and transports edible food from an edible
48 food generator to a food recovery organization or other entities for food recovery.
49 (27) "Food service distributor" means an entity primarily engaged in providing food services to institutional,
50 governmental, commercial, or industrial locations of others based on contractual arrangements with these
51 types of organizations.
52 (28) "Gray container" means a container where the lid of the container is entirely a shade of gray or black in
53 color.
54 (29) "Green container" means a container where the lid of the container is entirely green in color. Hardware
55 such as hinges and wheels on a green container may be a different color.
56 (30) "Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh
57 fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the
58 store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.
59 Grocery store includes convenience stores.

- 1 (31) "Hauler" has the same meaning as in Section 18815.2 (a)(32).
2 (32) "Health facility" has the same meaning as in Section 1250 of the Health and Safety Code.
3 (33) "High diversion organic waste processing facility" means a facility that is in compliance with the
4 reporting requirements of Section 18815.5(d) of this division and meets or exceeds an annual average
5 mixed waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024,
6 and 75 percent after January 1, 2025 as calculated pursuant to Section 18815.5(e) of this division for
7 organic waste received from the "Mixed Waste Organic Waste Collection Stream" as defined in Section
8 17402 (a)(11.5) of this division.
9 (34) "Hotel" has the same meaning as in Section 17210 of the Business and Professions code.
10 (35) "Inspection" means a site visit where a jurisdiction or the Department reviews records, containers, and
11 an entity's collection, handling, recycling, or disposal of organic waste or edible food handling to determine
12 if the entity is complying with requirements set forth in this chapter.
13 (36) "Jurisdiction" means a city or county, or a city and county or a special district that provides solid waste
14 handling services. A city or county, or a city and county, may utilize a Joint Powers Authority to comply with
15 the requirements of this chapter, except that the individual city, county, or city and county shall remain
16 ultimately responsible for compliance.
17 (37) "Jurisdiction of residence" means the jurisdiction where a generator who is a self-hauler generated
18 organic waste.
19 (38) "Large event" means an event, including, but not limited to, a sporting event or a flea market, that
20 charges an admission price, or is operated by a local agency, and serves an average of more than 2,000
21 individuals per day of operation of the event, at a location that includes, but not limited to, a public,
22 nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being
23 used for an event.
24 (39) "Large venue" means a permanent venue facility that annually seats or serves an average of more than
25 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of
26 this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated
27 stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport,
28 racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility.
29 For purposes of this chapter, a site under common ownership or control that includes more than one large
30 venue that is contiguous with other large venues in the site, is a single large venue.
31 (40) "Local education agency" means a school district, charter school, or county office of education that is
32 not subject to the control of city or county regulations related to solid waste.
33 (41) "Non-compostable paper" includes but is not limited to paper that is coated in a plastic material that will
34 not breakdown in the composting process.
35 (42) "Non-local entity" means an entity that is an organic waste generator but is not subject to the control of
36 a jurisdiction's regulations related to solid waste. These entities may include, but are not limited to, special
37 districts, federal facilities, prisons, facilities operated by the state parks system, public universities and state
38 agencies.
39 (43) "Non-organic recyclables" means non-putrescible and non-hazardous recyclable wastes including but
40 not limited to bottles, cans, metals, plastics, and glass.
41 (44) "Notice and Order to Correct (NOTC)" means a notice that a violation has occurred and that failure to
42 correct the violation may result in a penalty.
43 (45) "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance
44 date to avoid an action to seek penalties.
45 (46) "Organic waste" means solid wastes containing material originated from living organisms and their
46 metabolic waste products, including but not limited to food, green material, landscape and pruning waste,
47 organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids,
48 digestate, and sludges.
49 (47) "Organic waste disposal reduction target" is the statewide target to reduce the disposal of organic
50 waste by 50 percent by 2020 and 75 percent by 2025, based on the 2014 organic waste disposal baseline,
51 set forth in Section 39730.6 of the Health and Safety Code.
52 (48) "Organic waste generator" means a person or entity that is responsible for the initial creation of organic
53 waste.
54 (49) "Organic waste recovery activities" or "recovery" means any activity or process described in Section
55 18983.1(b).
56 (50) "Organic Waste Recovery Noncompliance Inventory" means a list of entities that have uncorrected
57 violations of the organics waste state standards contained in this chapter.

1 (51) "Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging,
2 file folders, and hanging files, building insulation and panels, corrugated boxes, tissue, and toweling.

3 (52) "Paper purchase" means all purchases by a jurisdiction of items in the following categories:

4 (A) Paper products.

5 (B) Printing and writing papers.

6 (52.5) "Permanent" means, in the context of the determination of processes or technologies that constitute a
7 reduction in landfill disposal, that greenhouse gas emissions reductions are not reversible, or when these
8 emissions reductions may be reversible, that mechanisms are in place to replace any reversed greenhouse
9 gas emissions reductions to ensure that all reductions endure for at least 100 years."

10 (53) "Person" has the same meaning as in Section 40170 of the Public Resources Code.

11 (54) "Printing and writing papers" include, but are not limited to, copy, xerographic, watermark, cotton fiber,
12 offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads,
13 writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures,
14 reports, magazines, and publications.

15 (55) "Prohibited container contaminants" means any of the following, but does not include organic waste
16 specifically allowed for collection in a container that is required to be transported to a high diversion organic
17 waste processing facility if the waste is specifically identified as acceptable for collection in that container in
18 a manner that complies with the requirements of Section 18984.1, 18984.2, or 18984.3

19 (A) Non-organic waste placed in a green collection container that is part of an organic waste collection
20 service provided pursuant to Section 18984.1 or 18984.2.

21 (B) Organic wastes that are, carpet, hazardous wood waste, non-compostable paper placed in the green
22 container that is part of an organic waste collection service provided pursuant to Section 18984.1 or
23 18984.2.

24 (C) Organic wastes, placed in a gray container, that pursuant to Section 18984.1 or 18984.2 were
25 intended to be collected separately in the green container or blue container.

26 (D) Organic wastes, placed in the blue container shall be considered prohibited container contaminants
27 when those wastes were specifically identified in this chapter or through a local ordinance for collection
28 in the green container for recovery. Paper products, printing and writing paper, wood and dry lumber
29 may be considered acceptable and not considered prohibited container contaminants if they are placed
30 in the blue container.

31 (56) "Processing" has the same meaning as in Section 17402 (a)(20).

32 (57) "Property owner" means the owner of real property

33 (58) "Publicly Owned Treatment Works" or "POTW" has the same meaning as in Section 403.3(r) of Title
34 40 of the Code of Federal Regulations.

35 (59) "Recovered organic waste product procurement target" means the amount of recycled organic waste
36 products which a jurisdiction is required to procure annually.

37 (60) "Recovered organic waste products" means products made from California, landfill-diverted recycled
38 organic waste processed in a permitted or otherwise authorized facility.

39 (61) "Recycled content paper" means paper products and printing and writing paper that consists of at least
40 30 percent, by fiber weight, postconsumer fiber.

41 (62) "Renewable transportation fuel" means fuel derived from renewable gas from organic waste that has
42 been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise
43 authorized by Title 14 to recycle organic waste.

44 (63) "Residual organic waste" means waste that remains after organic waste has been processed which is
45 then sent to landfill disposal.

46 (64) "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-
47 premises or immediate consumption.

48 (65) "Route review" means a visual inspection of containers along a hauler route for the purpose of
49 determining container contamination, and may include mechanical inspection methods such as the use of
50 cameras.

51 (66) "Self-hauler" means a person who hauls solid waste, organic waste or recyclable material he or she
52 has generated to another person. Self-hauler also includes a person who back-hauls waste.

53 (A) "Back-haul" means generating and transporting organic waste to a destination owned and operated
54 by the generator using the generator's own employees and equipment.

55 (67) "Sewage sludge" means the solid, semisolid, or liquid residue generated during the treatment of
56 domestic sewage in a municipal wastewater treatment facility. Sewage sludge includes solids removed or
57 used during primary, secondary, or advanced wastewater treatment processes. Sewage sludge does not
58 include grit or screening material generated during preliminary treatment of domestic sewage at a POTW.

59 (68) "Share table" has the same meaning as in Section 114079 of the Health and Safety Code

1 (69) "Source separated organic waste" means organic waste that is placed in a container that is specifically
2 intended for the separate collection of organic waste by the generator.

3 (70) "Subsequent violation" means a violation of this chapter by a jurisdiction or entity that has previously
4 been subject to an enforcement action for a violation of this chapter. For purposes of this chapter, a
5 subsequent violation may only be found when it has occurred within five years of the violation that has
6 already been the subject of an enforcement action.

7 (71) "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars
8 (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some
9 perishable items.

10 (72) "The 2014 organic waste disposal baseline" means the total tons of organic waste disposed statewide
11 in 2014 as calculated by CalRecycle's 2014 Waste Characterization Study.

12 (73) "Tier one commercial edible food generator" means a commercial edible food generator that is one of
13 the following:

14 (A) Supermarket.

15 (B) Grocery store with a total facility size equal to or greater than 7,500 square feet.

16 (C) Food service distributor.

17 (E) Wholesale food market.

18 (74) "Tier two commercial edible food generator" means a commercial edible food generator that is one of
19 the following:

20 (A) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.

21 (B) Hotel with an on-site food facility and 200 or more rooms.

22 (C) Health facility with an on-site food facility and 100 or more beds.

23 (E) Large venue.

24 (F) Large event.

25 (G) A state agency with a cafeteria with 250 or more seats or total cafeteria facility size equal, to or
26 greater than 5,000 square feet.

27 (H) A local education agency facility with an on-site food facility.

28 (75) "Violation" means a lack of compliance with a requirement of this chapter or local ordinance(s) adopted
29 pursuant to this chapter.

30 (76) "Wholesale food market" means a food establishment in which food (including fruits and vegetables) is
31 received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

32 (77) "Yellow container" means a container where lid of the container is entirely yellow in color. Hardware
33 such as hinges and wheels on a yellow container may be a different color.

34
35 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

36
37 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
38 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
39 39730.6, 39730.7 and 39730.8.

40 41 **Article 2. Landfill Disposal and Reductions in Landfill Disposal**

42 43 **Section 18983.1 Landfill Disposal and Recovery.**

44 (a) The following dispositions of organic waste shall be deemed to constitute landfill disposal:

45 (1) Final deposition at a landfill.

46 (2) Use as Alternative Daily Cover or Alternative Intermediate Cover at a landfill, except the use of Material
47 Recovery Fines that are approved pursuant to Section 20690 of Title 27 Division 2

48 (3) Any other disposition not listed in subsection (b) of this section.

49 (b) Organic waste sent to one of the following facilities, operations, or used for one of the following activities,
50 and not subsequently sent for landfill disposal shall be deemed to constitute a reduction of landfill disposal.

51 (1) An operation that qualifies as a "Recycling Center" as set forth in Section 17402.5(d), or is listed in
52 Section 17402.5(c) of this Division.

53 (2) A "Compostable Material Handling Operation or Facility" as defined in Section 17852(a)(12) of this
54 Division, small composting activities that would otherwise be excluded from that definition pursuant to
55 Section 17855(a)(4) of this Division, or community composting as defined in Section 18982(a)(8).

56 (3) An "In-vessel Digestion Operation or Facility" as listed in Section 17896.5 of this Division, or activities
57 that would otherwise not be subject to the in-vessel digestion requirements pursuant to Section 17896.6 of
58 this Division.

59 (4) A Biomass Conversion operation or facility as defined in Section 40106 of the Public Resources Code.

1 (5) Used as a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a
2 landfill, when the material is used in a manner that complies with the following criteria:

3 (A) The material has been processed at a solid waste facility, as defined in Section 40194 of the Public
4 Resources Code.; and,

5 (B) The use shall be:

6 1. Restricted to those organic wastes appropriate for the specific use and in accordance with
7 engineering, industry guidelines or other standard practices specified in the Report of Disposal Site
8 Information, as required by 27 CCR Section 21600(b)(6).

9 2. Restricted to quantities of solid wastes no more than necessary to meet the minimum
10 requirements of 1.

11 3. Stored and handled in a manner to protect public health and safety and the environment, and
12 control vectors, fires, odors, and nuisances.

13 (C) The material applied is never more than 12 inches in depth.

14 (D)The material applied is never commingled with solid waste and incorporated into the landfill for final
15 deposition.

16 (6) Land application, as defined in Section 17852(a)(24.5) of this division subject to the following conditions:

17 (A) Green waste or green material shall meet the definition of Section 17852(a)(21) and shall have been
18 processed at a solid waste facility, as defined by Section 40194 of the Public Resources Code.

19 (B) Biosolids shall:

20 1. Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of
21 Federal Regulations, Appendix B, and,

22 2. Meet the requirements in Section 17852(a)(24.5)(B)(6) of this division for beneficial reuse of
23 biosolids.

24 (C) Digestate shall:

25 1. Have been anaerobically digested at an in-vessel digestion operation or facility, as described in
26 Sections 17896.8 through 17896.13; and,

27 2. Meet the land application requirements described in Section 17852(a)(24.5)(A).

28 3. Have obtained applicable approvals from the State and/or Regional Water Quality Control Board
29 requirements.

30 (7) Lawful use as animal feed, as set forth in Chapter 6 of Food and Agricultural Code (FAC), commencing
31 with Section 14901 et. Seq and Title 3, Division 4, Chapter 2, Subchapter 2 commencing at Article 1,
32 Section 2675 of the Code of California Regulations.

33 (8) Other operations or facilities with processes that reduce short-lived climate pollutants as determined in
34 accordance with Section 18983.2.

35 (c) For the purposes of this section, the term "landfill" includes permitted landfills, landfills that require a permit,
36 export out of California for disposal, or any other disposal of waste as defined by Section 40192(c) of the Public
37 Resources Code.

38 (d) For the purposes of this section, edible food that would otherwise be disposed that is recovered for human
39 consumption shall constitute a reduction of landfill disposal.

40
41 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

42
43 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
44 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
45 39730.6, 39730.7 and 39730.8.

46
47 **Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal**

48 (a) For operations, facilities or activities not expressly identified in section 18983.1, as reducing landfill disposal,
49 the following process shall be used to determine if processes or technologies shall be deemed to constitute a
50 reduction of landfill disposal:

51 (1) The applicant shall submit the following information to the Department:

52 (A) Name and contact information for the person responsible for the information in the report.

53 (B) Detailed explanation of each of the processes or technologies proposed by the applicant for use to
54 reduce landfill disposal.

55 (C) For each process or technology noted in Section 18983.2(a)(1)(B), the mass in short tons of organic
56 waste, differentiated by type, that will be processed each year. For mixed organic waste, the mass in
57 short tons of the various types of organic waste shall be determined based on an annual waste
58 characterization study.

1 (D) For any residual material produced from the proposed process or technology, a description of each
2 end use or disposal location to which the residual material will be sent. For each end use or disposal
3 location, the applicant must submit the expected mass in short tons and characteristics of the residual
4 material.

5 (E) For each of the processes or technologies described pursuant to Section 18983.2(a)(1)(B), each
6 calculation, assumption, and emission factor used by the applicant to calculate the permanent
7 greenhouse gas emissions reduction potential of the proposed operation. All calculations must be
8 clearly laid out such that the Department and/or the Executive Officer of the California Air Resources
9 Board (CARB) are able to follow and understand the calculation of greenhouse gas emissions reduction
10 potential. Calculations must include quantification of the greenhouse gas emissions produced from the
11 process or technology itself, including those emissions from any residual material.

12 (F) For each emission factor used pursuant to Section 18983.2(a)(1)(E), documentation demonstrating
13 that the emission factor has been peer reviewed or subjected to other scientifically rigorous review
14 methods.

15 (G) A detailed explanation of how the proposed technology or process will result in a permanent
16 reduction in greenhouse gas emissions.

17 (H) A written attestation that the information supplied is true, accurate, and complete.

18 (I) The director of the Department may request additional information from the applicant if required to
19 validate the information submitted pursuant to this Section.

20 (2) The Department shall consult with CARB's Executive Officer to evaluate if the information submitted by
21 the applicant is sufficient to determine the greenhouse gas emissions reduction potential of the proposed
22 operation, and whether or not the proposed operation results in a permanent reduction in greenhouse gas
23 emissions, and therefore counts as a reduction in landfill disposal.

24 (3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the
25 Department and/or CARB's Executive Office shall compare the metric tons carbon dioxide equivalent
26 (MTCO₂e) per short ton organic waste reduced by the process or technology, with the emissions reduction
27 from composting organic waste (0.30 MTCO₂e/short ton organic waste). The Department shall only deem a
28 proposed operation to constitute a reduction in landfill disposal if the process or technology has permanent
29 greenhouse gas emissions reductions equal to or greater than the 0.30 MTCO₂e/short ton of mixed organic
30 waste.

31 (b) If the Department determines that a proposed process or technology results in a reduction in landfill
32 disposal, the Department shall post to its website the results of the determination and include a description of
33 the operation.

34 (c) Upon request of the applicant, as part of determination of activities that constitute a reduction in landfill
35 disposal, the Department may consider additional information provided by the applicant that demonstrates that
36 the proposed activity is identical or equivalent to a proposed activity the Department has determined pursuant
37 to Section 18983.2(a) results in a reduction in landfill disposal.

38
39 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

40
41 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
42 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
43 39730.6, 39730.7 and 39730.8.

Article 3. Organic Waste Collection Services

Section 18984.

46 (a) This article specifies the minimum standards for organic waste collection services provided by jurisdictions,
47 outlines efforts jurisdictions must engage in to reduce container contamination, delineates container color and
48 labeling requirements, specifies criteria for rural jurisdictions to be exempt from specified requirements of this
49 section and criteria for jurisdictions to waive requirements for specified generators. This article additionally
50 specifies associated recordkeeping requirements for these standards.

51 (b) This article sets forth the requirements for Organic Waste collection in the following sections:

52 18984.1 Three-container Organic Waste Collection Services.

53 18984.2 Two-container Organic Waste Collection Services.

54 18984.3 Unsegregated Single Container Collection Systems.

55 18984.4 Recordkeeping Requirements for Compliance with Organic Waste Collection Services.

56 18984.5 Container Contamination Minimization.

57 18984.6 Recordkeeping Requirements for Container Contamination Minimization.

58 18984.7 Container Color Requirements.

- 1 18984.8 Container Labeling Requirements.
- 2 18984.9 Organic Waste Generator Requirements.
- 3 18984.10 Property Owner Requirements.
- 4 18984.11 Waivers and Exemptions Granted by Jurisdictions.
- 5 18984.12 Waivers and Exemptions Granted by the Department.
- 6 18984.13 Emergency Circumstances.
- 7 18984.14 Recordkeeping Requirements for Waivers and Exemptions.

8
9 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

10
11 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
12 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
13 39730.6, 39730.7 and 39730.8.

14
15 **Section 18984.1. Three-container Organic Waste Collection Services**

16 (a) A jurisdiction may comply with the requirements of this article by implementing a three-container organic
17 waste collection service and providing a green container, a blue container, and a gray container to each
18 generator in the following manner:

19 (1) The green container shall be provided for the collection of organic waste. The green container shall be
20 intended for the collection of organic waste only and not non-organic waste. The contents of the green
21 container shall be transported to a facility that recovers source separated organic waste.

22 (2) The blue container shall be provided for the collection of non-organic recyclables only but may include
23 the following types of organic wastes: paper products, printing and writing paper, wood and dry lumber and
24 textiles. The contents of the blue container shall be transported to a facility that recovers the materials
25 designated for collection in the blue container.

26 (3) The gray container shall be for the collection of non-organic waste only.

27 (4) A jurisdiction may comply with this section by providing a container or containers that are split or divided
28 into segregated sections, instead of an entire container, as long as the lids of the separate sections of a
29 split container comply with the container color requirements and material limitations specified in this section.

30 (5) The following shall not be collected in the green container:

31 (A) Carpets, non-compostable paper, and hazardous wood waste.

32 (6) A jurisdiction may require additional segregation of source separated organic waste by providing
33 multiple source separated organic waste containers or additional sections of split containers in addition to
34 the green container.

35 (A) This may include, in addition to a green container for yard waste and green waste, a yellow container
36 for separated food waste.

37 (B) Additional containers provided in accordance with this subdivision shall not be blue, gray, or green.

38 (b) A jurisdiction that provides a three-container organic waste collection service that complies with subdivision
39 (a) may transport the contents of the gray container to a facility that processes and recovers organic waste. A
40 jurisdiction that complies with subdivision (a) is not required to transport the contents of the gray container to a
41 facility that meets or exceeds the organic waste content recovery standard specified in Section 18984.3. A
42 jurisdiction will not be considered out of compliance with subdivision (a) if it allows carpet and textiles to be
43 placed in the gray container.

44 (c) Notwithstanding subdivision (a), a jurisdiction providing a three-container organic waste collection service
45 may allow organic waste, such as food waste, to be collected in the gray container provided that the collection
46 program complies with the following:

47 (1) The contents of the gray container shall be transported to a facility that meets or exceeds the organic
48 waste content recovery requirements specified in Section 18984.3.

49 (2) The gray container is labeled in a manner consistent with Section 18984.8 that identifies the types of
50 organic waste content accepted in the gray container.

51 (3) The jurisdiction otherwise provides green and blue containers in a manner that complies with the
52 requirements and limitations specified in subdivision (a) of this section.

53 (d) Notwithstanding subdivision (a), the contents of containers may be initially transported to a consolidation
54 site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

55
56 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

57

1 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
2 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
3 39730.6, 39730.7 and 39730.8.

4
5 **Section 18984.2. Two-container Organic Waste Collection Services**

6 (a) A jurisdiction may comply with the requirements of this article by implementing a two-container organic
7 waste collection service providing a green container and a blue container to each generator in the following
8 manner:

9 (1) The green container shall be for the collection of organic waste only. The contents of the green
10 container shall be transported to a facility that specifically recovers source separated organic waste.

11 (2) The blue container shall be for the collection of all non-organic waste. However, the blue container may
12 be used for the collection of the following types of organic wastes: paper products, printing and writing
13 paper, wood and dry lumber, and textiles.

14 (3) If either container is intended for the collection of both organic waste and non-organic waste, the
15 contents of that container shall be transported to a high diversion organic waste processing as specified in
16 Section 18984.3 of this article.

17 (4) A jurisdiction shall, consistent with Section 18984.8 of this article, clearly identify the types of wastes
18 accepted in each container and which container shall be used for the collection of any unidentified
19 materials.

20 (5) The following shall not be collected in the green container:

21 (A), Carpets, non-compostable paper, and hazardous wood waste

22 (b) Notwithstanding (a) the contents of containers may be initially transported to a consolidation site as defined
23 in Section 17402 that complies with the requirements of Section 17409.5.10.

24
25 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

26
27 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
28 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
29 39730.6, 39730.7 and 39730.8.

30
31 **Section 18984.3. Unsegregated Single-Container Collection Services**

32 (a) A jurisdiction may comply with the requirements of this article by providing a single gray container to each
33 generator that allows for intentional comingling of all collected wastes, including organic waste, provided that
34 the contents of the gray container are transported to a high diversion organic waste processing facility.

35 (b) If the facility that the container is transported to has an annual average mixed waste organic content
36 recovery rate that is lower than required in Section 18982(a)(33) of this chapter for two (2) consecutive
37 quarterly reporting periods or three (3) quarterly reporting periods within three (3) years, the facility shall not
38 qualify as a high diversion organic waste processing facility.

39 (c) If the jurisdiction is in violation of this section due to a facility to which it sends organic waste being unable to
40 meet the required annual average mixed waste organic content recovery rate, the jurisdiction shall be subject
41 to the enforcement process in Section 18996.2, which may include a corrective action plan as specified in that
42 section allowing it time to meet the requirements of this article prior to the Department seeking administrative
43 penalties.

44 (d) Notwithstanding subdivision (a), the contents of containers may be initially transported to a consolidation
45 site as defined in Section 17402 that complies with the requirements of Section 17409.5.10.

46 (e) A jurisdiction may allow organic waste specified for collection in the gray container to be placed in bags for
47 collection.

48
49 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

50
51 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
52 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
53 39730.6, 39730.7 and 39730.8.

54
55 **Section 18984.4. Recordkeeping Requirements for Compliance with Organic Collection**

56 (a) A jurisdiction shall include the following information and documents in the Implementation Record required
57 by Section 18995.2 of this chapter:

58 (1) A description of which collection method(s) it will use to comply with this article.

59 (2) The geographical area for each collection method

1 (3) If the jurisdiction is using a service that requires the contents of containers provided by the jurisdiction to
2 be transported to a high diversion organic waste processing facility, the jurisdiction shall at a minimum:

3 (A) List all high diversion organic waste processing facilities used by the jurisdiction.

4 (B) Include copies of, quarterly and annual average mixed waste organic content recovery rates, for
5 each of those facilities, as defined in Section 18984.3.

6 (C) List all approved haulers in the jurisdiction that are allowed to take organic waste to the jurisdiction's
7 identified high diversion organic waste processing facility or facilities.

8 (D) The geographical area the hauler(s) serves, the routes serviced, or a list of addresses served.

9
10 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

11
12 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
13 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
14 39730.6, 39730.7 and 39730.8.

15
16 **Section 18984.5. Container Contamination Minimization**

17 (a) A jurisdiction shall monitor the containers provided to generators using a three-container or two-container
18 organic waste collection service to minimize prohibited container contaminants as required by this section.

19 (b) A jurisdiction shall conduct a route review for prohibited container contaminants on randomly selected
20 containers in a manner that results in all collection routes being reviewed quarterly.

21 (1) Upon finding prohibited container contaminants in a container, the jurisdiction, shall contact the
22 generator or provide written notice to the generator.

23 (A) The written notice shall, at a minimum, include information regarding the generator's requirement to
24 properly separate materials into the appropriate containers and may include photographic evidence of
25 the violation.

26 (B) The notice may be left on the generator's container at the time the violation occurs.

27 (2) If a jurisdiction observes a visible prohibited container contaminant in a generator's green container or
28 blue container, it may dispose of the container's contents.

29 (3) If the jurisdiction observes prohibited container contaminants in a generator's green container or blue
30 container on more than three consecutive occasions, the jurisdiction may impose additional contamination
31 processing fees on the generator and may impose penalties.

32 (c) If a jurisdiction is informed by a solid waste facility operator pursuant to Section 17409.5.7, 17867, or
33 17896.25.1 of this division, or Title 27, Section 20901, that the waste collected by one of its haulers contains
34 prohibited container contaminants while the hauler was servicing the jurisdiction's generators, then the
35 jurisdiction shall:

36 (1) Investigate by physically inspecting containers along the route(s) that the contaminants came from to
37 determine the sources of contamination and provide written notification, either by placement on organic
38 waste containers, mailing education notices, or direct contact with generators, which shall, at a minimum,
39 include information regarding the generator's requirement to properly separate materials into the
40 appropriate containers and may include photographic evidence of the violation.

41 (d) If a jurisdiction complies with this section through a designee as allowed in Section 18981, 2 of this chapter,
42 and the designee observes visible prohibited container contaminants in a container, the designee shall inform
43 the jurisdiction in writing, each month, with the address of the generator and the date the contaminated
44 container was observed; if available, any photographic documentation; and what action was taken.

45 (e) Nothing in this section limits a jurisdiction from adopting contamination standards that are more stringent
46 than the requirements of this section.

47
48 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

49
50 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
51 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
52 39730.6, 39730.7 and 39730.8.

53
54 **Section 18984.6. Recordkeeping Requirements for Container Contamination Minimization**

55 (a) A jurisdiction shall include the following information and documents related to its compliance with Section
56 18984.5, in the Implementation Record required by Section 18995.2 of this chapter.

57 (1) A description of the jurisdiction's process for determining the level of container contamination.

58 (2) Documentation of random route reviews for each collection date conducted pursuant to Section
59 18984.5(b), as described in Section 18995.1 of this chapter.

1 (3) Copies of all written notices, violations, education, and enforcement actions issued or given to the
2 generator with prohibited container contaminants.

3 (A) If direct contact other than written contact is made in lieu of written notification, the jurisdiction shall
4 include a record of the type of contact provided, and the date contact was made in the implementation
5 record.

6 (4) Documentation of notifications from solid waste facility operators of contaminated loads, documentation
7 of subsequent follow-up such as copies of the jurisdiction's route review and findings conducted pursuant to
8 Section 18984.5(c).

9
10 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

11
12 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
13 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
14 39730.6, 39730.7 and 39730.8.

15
16 **Section 18984.7. Container Color Requirements**

17 (a) A jurisdiction shall provide collection containers to generators that comply with the container color
18 requirements specified in this article.

19 (b) Notwithstanding subdivision (a), a jurisdiction is not required to replace functional containers that do not
20 comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to
21 January 1, 2032, whichever comes first.

22
23 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

24
25 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
26 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
27 39730.6, 39730.7 and 39730.8.

28
29 **Section 18984.8. Container Labeling Requirements**

30 (a) Commencing January 1, 2022, a jurisdiction shall place and maintain a label on each new container or lid
31 provided to generators consistent with the applicable container collection requirements and limitations of this
32 article specifying what materials are allowed to be placed in each container.

33 (b) A jurisdiction may comply with this section by:

34 (1) Placing labels on containers that include written or graphic materials that indicate which materials are
35 accepted and which are prohibited in that container;

36 (2) Providing containers with imprinted text or graphics that indicate which materials are accepted and
37 which are prohibited in that container.

38 (c) A jurisdiction may comply with this section by using model labeling provided by the Department.

39
40 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

41
42 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
43 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
44 39730.6, 39730.7 and 39730.8.

45
46 **Section 18984.9 Organic Waste Generator Requirements**

47 (a) Organic waste generators shall comply with applicable local requirements adopted pursuant to this article
48 for the collection and recovery of organic waste, by either:

49 (1) Subscribing to and complying with the requirements of the organic waste collection service provided by
50 their jurisdiction; or

51 (2) Self-hauling organic waste to a facility that processes source separated organic waste in a manner that
52 complies with the requirements of Article 7 (commencing with Section 18988).

53 (b) Generators that are commercial businesses shall also:

54 (1) Provide containers for the collection of organic waste and non-organic recyclables in all areas where
55 disposal containers are provided for customers, except for restrooms. The containers provided by the
56 business shall conform with the containers provided through the organic waste recovery service provided by
57 their jurisdiction.

1 (2) Prohibit their employees from placing organic waste in a container not designated to receive organic
2 waste as set forth in Sections 18984.1(a)(5) and 18984.2(a)(5) of this chapter.

3 (3) Periodically inspect organic waste containers for contamination and inform employees if containers are
4 contaminated and of the requirement to only use those containers for organic waste.

5 (c) Nothing in this section prohibits a generator from preventing or reducing waste generation, managing
6 organic waste on site, or using a community composting site.

7
8 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

9
10 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
11 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
12 39730.6, 39730.7 and 39730.8.

13
14 **Section 18984.10. Property and Business Owner Responsibilities**

15 (a) Property owners and business owners shall provide or arrange for organic waste collection services
16 consistent with this article and local requirements, for employees, contractors, tenants, and customers,
17 including supplying and allowing access to adequate number, size, and location of containers with sufficient
18 labels and container color.

19 (b) Property and business owners shall annually provide information to employees, contractors, tenants, and
20 customers about organic waste recovery requirements and about proper sorting of organic waste.

21 (1) Property owners shall provide information to new tenants upon occupation of the premises.

22 (c) Property and business owners shall provide or arrange for access to their properties during all inspections
23 conducted pursuant to Article 14 of this chapter (commencing with Section 18995).

24
25 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

26 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
27 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
28 39730.6, 39730.7 and 39730.8.

29
30 **Section 18984.11. Waivers and Exemptions Granted by a Jurisdiction**

31 (a) A jurisdiction may grant one or more of the following types of waivers to a generator of organic waste:

32 (1) De Minimis Waivers:

33 (A) A jurisdiction may waive a commercial business's obligation to comply with some or all of the organic
34 waste requirements of this article if the generator is a commercial business that provides documentation
35 or the jurisdiction has evidence demonstrating that:

36 1. The commercial business's total solid waste collection service is two cubic yards or more per week
37 and organic waste comprises less than 20 gallons per week of the businesses' total waste.

38 2. The commercial business's total solid waste collection service is less than two cubic yards per
39 week and organic waste comprises less than 10 gallons per week of the businesses' total waste.

40 (B) A jurisdiction shall annually verify that the commercial business's organic waste generation meets
41 the waiver thresholds set forth in this subdivision.

42 (C) If a jurisdiction obtains information at any time that a commercial business that has received a
43 waiver is exceeding the organic waste thresholds specified in subdivision (A)1 or (A)2, the jurisdiction
44 shall rescind the commercial business's waiver.

45 (2) Physical Space Waivers.

46 (A) A jurisdiction may waive some or all of the organic waste collection service requirements of this
47 article if a commercial business or property owner provides documentation, or the jurisdiction has
48 evidence from its staff, a hauler, licensed architect, engineer, or similarly qualified source demonstrating
49 that its premises lack adequate space for separate organic waste containers.

50 (3) Collection Frequency Waivers:

51 (A) A jurisdiction may allow the owner or tenant of any residence, premise, business establishment or
52 industry that subscribes to a three-container or two-container organic waste collection service to arrange
53 for a service that collects waste not placed in the green container once every fourteen days, provided
54 that:

55 1. The jurisdiction, or its authorized hauler, demonstrates to the Solid Waste Local Enforcement
56 Agency that less frequent collection than required by Section 17331 of Title 14 of the California Code

1 of Regulations will not result in the propagation of vectors or other public health and safety, or
2 nuisance issues.

3 (b) Nothing in this section allows a jurisdiction to exempt a business subject to the requirements of Section
4 42649.81 of the Public Resources Code from compliance with that section.

5 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

6
7 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
8 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
9 39730.6, 39730.7 and 39730.8.

10
11 **Section 18984.12. Waivers and Exemptions Granted by the Department**

12 **(a) Low population waivers:**

13 (1) An incorporated city may apply to the Department for a waiver for the jurisdiction and some or all its
14 generators from some or all of the requirements of this article if the following apply.

15 (A) The jurisdiction disposed of less than 5,000 tons of solid waste in 2014 as reported in the Disposal
16 Reporting System.

17 (B) The jurisdiction has a total population of less than 5,000 people.

18 (2) A county may apply to the Department for a waiver from some or all of the requirements of this article for
19 census tracts located in unincorporated portions of the county that have a population density of less than 50
20 people per square mile.

21 (b) Waivers issued pursuant to subdivision (a) shall be good for a period of up to two years and shall be subject
22 to approval by the Department as follows:

23 (1) A jurisdiction shall submit a request for a waiver with the following information:

24 (A) The number of generators that will be included in the waiver.

25 (B) The requested length of the waiver.

26 (C) If the request for a waiver is submitted by a county seeking to waive unincorporated census tracts,
27 the county shall identify each census tract that will be waived.

28 (2) The Department shall review and evaluate a waiver request within 90 days. The Department shall
29 approve a request to grant a waiver if it meets the requirements of this section.

30 **(c) Rural Exemptions:**

31 (1) The Department shall grant an exemption from complying with the organic waste collection requirements
32 specified in this article for Rural Jurisdictions that meet the definition of a "Rural Jurisdiction" in Section
33 42649.8 of the Public Resources Code, if the governing body of the jurisdiction adopts a resolution that
34 includes a finding as to the purpose of and need for the exemption.

35 (2) An exemption implemented pursuant to this subdivision shall be valid until January 1, 2025, or until five
36 years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the
37 statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the
38 2014 calendar year, whichever is later.

39 (d) Nothing in this section exempts a jurisdiction from complying with the other requirements to promote and
40 provide information to generators about, waste prevention, community composting, managing organic waste
41 on-site, and other means of recovering organic waste, or any other requirements of this chapter.

42
43 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

44
45 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
46 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
47 39730.6, 39730.7 and 39730.8.

48
49 **Section 18984.13. Emergency Circumstances**

50 **(a) Emergency Processing Facility Temporary Equipment or Operational Failure Waivers:**

51 (1) If the facility processing a jurisdiction's organic waste notifies the jurisdiction that operational restrictions
52 have been imposed upon it by a regulatory agency or that a temporary equipment or operational failure will
53 prevent the facility from processing or recovering organic waste, the jurisdiction may allow the organic
54 waste stream transported to that facility to be deposited in a landfill or landfills for up to 90 days from the
55 date of the restriction or failure.

56 (2) A jurisdiction shall notify the Department in writing within 10 days of a waiver decision pursuant to
57 subdivision (a)(1). The notice sent to the Department shall include the period of time that the jurisdiction

1 has allowed the organic waste stream to be deposited in a landfill or landfills and the Recycling and
2 Disposal Reporting System Number of the facility.

3 (b) Disasters and emergency waivers:

4 (1) A jurisdiction may submit a request for a waiver for the disposal of "disaster debris" as defined in Section
5 17210.1(d) of this division that cannot be diverted as defined in 17210.1(e) of this division if a waiver or
6 wavers have been granted to Sections 17210.4 and 17210.9 of this division.

7 (2) a Jurisdiction may dispose of sediment debris removed from dams, culverts, reservoirs, channels and
8 other flood control infrastructure if the material is subject to a waste discharge requirement issued by the
9 regional water quality control board that requires the average organic content of the debris to be less than
10 five percent.

11
12 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

13
14 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
15 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
16 39730.6, 39730.7 and 39730.8.

17
18 **Section 18984.14. Recordkeeping Requirements for Waivers and Exemptions**

19 (a) A jurisdiction shall include the following information and documents in the Implementation Record required
20 by Section 18995.2 of this chapter:

21 (1) A copy of all correspondence received from a facility that triggered a Processing Facility Temporary
22 Equipment or Operational Failure Waiver and documentation setting forth the date of issuance of the
23 waiver, the timeframe for the waiver, and the locations or routes affected by the waiver.

24 (2) A description of the jurisdiction's process for issuing waivers and frequency of inspections by the
25 jurisdiction to verify the validity of waivers.

26 (3) A copy of all De Minimis Waivers, including the location, date issued, and name of generators.

27 (4) A copy of all Physical Space Waivers, including the location, date issued, and name of generators.

28 (5) A copy of all collection frequency waivers, including the location, date issued, and name of generators.

29
30 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

31
32 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
33 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
34 39730.6, 39730.7 and 39730.8.

35
36 **Article 4. Education and Outreach**

37
38 **Section 18985.1. Organic Waste Recovery Education and Outreach**

39 (a) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide the following to organic waste
40 generators that are provided a three-container or two-container organic waste collection service:

41 (1) Information on the organic waste generator's requirements to properly separate materials in appropriate
42 containers pursuant to this chapter.

43 (2) Information on methods for: the prevention of organic waste generation, recycling organic waste on-site,
44 sending organic waste to community composting, and any other local requirements regarding organic
45 waste.

46 (3) Information regarding the methane reduction benefits of reducing the disposal of organic waste.

47 (4) Information regarding how to recycle organic waste and a list of approved haulers.

48 (5) Information related to the public health and safety and environmental impacts associated with the
49 disposal of organic waste.

50 (6) Information regarding programs for the donation of edible food.

51 (b) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide to self-haulers information
52 regarding the requirements of Section 18988.3 of this chapter.

53 (c) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide to organic waste generators
54 using an unsegregated single-container collection service with the information in subdivisions (a)(2), (3), and
55 (4), along with information that the organic waste is being processed at a high diversion organic waste
56 processing facility.

57 (d) A jurisdiction may comply with the requirements of this section through any of the following methods:

58 (1) Providing the information required by this section through print or electronic media, or

59 (2) Direct contact with generators through workshops, meetings, or on-site visits.

1 (e) A jurisdiction may comply with the requirements of subdivision 18985.1(a) through its authorized haulers.
2 (f) If more than five percent of a jurisdiction's generators are defined as "Limited English Speaking
3 Households," or "linguistically isolated," as defined by the U.S. Census Bureau, the jurisdiction shall provide the
4 information required by this section in a language or languages that will assure the information is understood by
5 those generators.

6
7 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

8
9 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
10 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
11 39730.6, 39730.7 and 39730.8.

12
13 **Section 18985.2. Edible Food Recovery Education and Outreach**

14 (a) On or before February 1, 2022 a jurisdiction shall:

15 (1) Develop and maintain a list of food recovery organizations and food recovery services operating within
16 the jurisdiction, and maintain the list on the jurisdiction's website. The list shall include, at a minimum, the
17 following information about each food recovery organization and each food recovery service:

- 18 (A) Name and physical address.
19 (C) Phone number.
20 (D) Collection service area.
21 (E) Hours of operation.

22 (b) At least annually a jurisdiction shall:

23 (1) Provide commercial businesses that generate edible food with the following information:

- 24 (A) Information about the jurisdiction's edible food recovery collection program established pursuant to
25 Section 18991.1 of this chapter.
26 (B) Information about commercial edible food generators requirements specified in Article 10.
27 (C) Information about food recovery organizations and food recovery services operating within the
28 jurisdiction, and where a list of those food recovery organizations and food recovery services can be
29 found.

30 (2) The jurisdiction may provide this information by including it with regularly scheduled notices to those
31 commercial businesses, including the notices provided pursuant to Section 18985.1.

32
33 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

34
35 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
36 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
37 39730.6, 39730.7 and 39730.8.

38
39 **Section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and**
40 **Outreach Requirements**

41 (a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the
42 Implementation Record required by Section 18995.2 of this chapter, including, but not limited to:

- 43 (1) Copies of the information provided to comply with this article, including: flyers, brochures, newsletters,
44 invoice messaging, website, social media, .
45 (2) The date, and to whom the information or direct contact was disseminated.
46 (3) If the material was electronic, a copy, with dates posted of: social media posts, e-mail or other electronic
47 message.
48 (4) If a jurisdiction relies on a designee, as allowed in Section 18981.2 of this chapter, to comply with this
49 section, it shall include a copy of the materials distributed by the designee.

50
51 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

52
53 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
54 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
55 39730.6, 39730.7 and 39730.8.

56
57 **Article 5. Generators of Organic Waste**

58
59 **Section 18986.1. Non-Local Entities Requirements**

1 (a) Non-local entities shall comply with the requirements of this chapter to prevent and reduce the generation of
2 organic waste by:

3 (1) Subscribing to and complying with the requirements of an organic waste collection service that meets
4 the requirements of Article 3 of this chapter; or

5 (2) Self-hauling organic waste to a facility that processes source separated organic waste in a manner that
6 complies with the requirements of Article 7 of this chapter.

7 (b) Non-local entities shall provide containers for the collection of organic waste and non-organic recyclables in
8 all areas where disposal containers are located. The containers provided shall conform to the requirements of
9 the containers provided through organic waste recovery service to which the non-local entity is subscribed.

10 (c) Non-local entities shall prohibit their employees from placing organic waste in a container not designated to
11 receive organic waste.

12 (1) The following shall not be collected in the green container or blue container:

13 (A) Textiles, carpets, plastic coated paper, and human or pet waste.

14 (B) Hazardous wood waste and material subject to a quarantine on movement issued by a county.

15 (d) Non-local entities shall periodically inspect organic waste containers for contamination and inform
16 employees if containers are contaminated and of the requirement to only use those containers for organic
17 waste.

18 (e) Non-local entities shall provide information to employees on methods for the prevention of organic waste
19 generation.

20 (f) Nothing in this section prohibits a non-local entity from preventing waste generation, managing organic
21 waste on site, or using a community composting site.

22
23 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

24
25 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
26 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
27 39730.6, 39730.7 and 39730.8.

28
29 **Section 18986.2. Local Education Agencies Requirements.**

30 (a) Local education agencies shall comply with the requirements of this chapter to prevent and reduce the
31 generation of organic waste by:

32 (1) Subscribing and complying with the requirements of an organic waste collection service that meets the
33 requirements of Article 3 of this chapter; or

34 (2) Self-hauling organic waste to a facility that processes source separated organic waste in a manner that
35 complies with the requirements of Article 7 of this chapter.

36 (b) Local education agencies shall provide containers for the collection of organic waste and non-organic
37 recyclables in all areas where disposal containers are located. The containers provided shall conform to the
38 requirements of the containers provided through the organic waste recovery service to which the local
39 education agency is subscribed.

40 (c) Local education agencies shall provide information to employees and students on methods for the
41 prevention of organic waste generation.

42 (d) Nothing in this section prohibits a local education agency from preventing waste generation, managing
43 organic waste on site, using a community composting site.

44
45 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

46
47 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
48 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
49 39730.6, 39730.7 and 39730.8.

50
51 **Section 18986.3. Waivers for Non-Local Entities and Local Education Agencies.**

52 (a) The Department shall waive a non-local entity's or local education agency's obligation to comply with some
53 or all of organic waste collection service requirements of this article if the entity or agency provides
54 documentation demonstrating any of the following:

55 (1) The total solid waste collection service subscribed to is two cubic yards or more per week and organic
56 waste comprises less than 20 gallons per week of the non-local entities' or local education agencies' total
57 waste.

1 (2) The total solid waste collection service subscribed to is less than two cubic yards per week and organic
2 waste comprises less than 10 gallons per week of the non-local entities' or local education agencies' total
3 waste.

4 (3) It provides documentation from the hauler, licensed architects, or engineers or similarly qualified entity,
5 that demonstrates that there is not adequate space for separate organic waste containers.

6 (4) The entity is located within a jurisdiction or census tract that has been granted a waiver by the
7 Department pursuant to Section 18984.12.

8
9 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

10
11 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
12 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
13 39730.6, 39730.7 and 39730.8.

14 15 **Article 6. Biosolids Generated at a Publicly Owned Treatment Works (POTW)**

16 17 **Section 18987.1. Biosolids Generation at a POTW**

18 (a) A POTW generating biosolids is not subject to the following:

19 (1) The generator requirements set forth in Article 3 of this chapter.

20 (2) The organic waste diversion and measurement requirements described in Sections 17409.5.1 through
21 17409.5.8 of this division.

22 (3) The record keeping and reporting requirement described in Section 17414.2 of this division.

23 (b) Material received at a POTW that it is not allowed to accept pursuant to Section 17896.6(a)(1)(C) or (D)
24 shall be deemed to constitute landfill disposal pursuant to Section 18983.1(a)(3).

25
26 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

27
28 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
29 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
30 39730.6, 39730.7 and 39730.8.

31 32 **Section 18987.2. Biosolids and Sewage Sludge Handling at a POTW**

33 (a) Biosolids generated at a POTW shall be:

34 (1) Transported only to a solid waste facility or operation for additional processing, composting, in-vessel
35 digestion, or other recovery as specified in Section 18983.1(b) of this division.

36 (2) Notwithstanding subdivision (a)(1), sewage sludge and biosolids not suitable for additional processing or
37 recovery may be sent for disposal to a permitted facility that can receive that sewage sludge and biosolids
38 and has obtained the applicable approvals by the regional, state, and federal agencies having appropriate
39 jurisdiction.

40
41 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

42
43 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
44 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
45 39730.6, 39730.7 and 39730.8.

46 47 **Article 7. Regulations of Haulers**

48 49 **Section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers**

50 (a) A jurisdiction shall require haulers providing residential, commercial, or industrial organic waste collection
51 services to generators within its boundaries to meet the requirements and standards of this chapter as a
52 condition of approval of a contract, agreement, or other authorization to collect organic waste.

53 (1) A jurisdiction shall require haulers to identify the facilities to which they will transport organic waste as a
54 requirement for approval.

55 (2) A jurisdiction shall require haulers providing an organic waste collection service to comply with the
56 applicable requirements of Article 3 of this chapter.

1 (b) If a jurisdiction allows generators within its boundaries to self-haul organic waste, it shall adopt an ordinance
2 or a similarly enforceable mechanism that requires compliance with the requirements in Section 18988.3 of this
3 article.

4 (c) Notwithstanding subdivision (a), this section is not applicable to:

5 (1) A hauler that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950
6 of the Public Resources Code, transporting source separated organic waste to a community composting
7 site; or,

8 (2) A hauler that is transporting construction and demolition debris in compliance with Section 18989.1.

9
10 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

11
12 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
13 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
14 39730.6, 39730.7 and 39730.8.

15 **Section 18988.2. Organic Waste Hauler Requirements**

16 (a) A hauler providing residential, commercial, or industrial organic waste collection services shall comply with
17 all of the following:

18 (1) Organic waste collected by the hauler shall be transported to a facility, operation, activity or property that
19 recovers organic waste as defined in Article 2.

20 (2) Obtain applicable approval issued by the jurisdiction pursuant to Section 18988.1.

21 (b) The hauler shall keep a record of the documentation of its approval by the jurisdiction.

22 (c) Notwithstanding (a), this section is not applicable to:

23 (1) A hauler that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950
24 of the Public Resources Code, transporting source separated organic waste to a community composting
25 site; or,

26 (2) A hauler that is transporting construction and demolition debris in compliance with Section 18989.1

27
28 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

29
30 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
31 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
32 39730.6, 39730.7 and 39730.8.

33 **Section 18988.3. Self-haulers of Organic Waste**

34 (a) Generators of organic waste may, in compliance with Section 18988.1 of this division, self-haul their own
35 organic waste.

36 (b) A generator who is a self-hauler of organic waste shall comply with the following:

37 (1) The generator shall source-separate all organic waste generated on site in a manner consistent with
38 Sections 18984.1 and 18984.2 of this chapter.

39 (2) The generator shall haul source separated organic waste to a solid waste facility operation, activity, or
40 property that processes or recovers source separated organic waste.

41 (3) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility,
42 operation, activity, or property that processes or recovers organic waste; this record shall be subject to
43 inspection by the jurisdiction.

44 (A) The records shall include delivery receipts and weight tickets from the entity accepting the waste.

45 (B) The record shall indicate the amount of material in cubic yards or tons transported by the generator
46 to each entity.

47 (C) Notwithstanding subdivision (b)(3)(A), if the material is transported to an entity that does not have
48 scales on-site, the self-hauler is not required to record the weight of material but shall keep a record of
49 the entities that received the organic waste.

50 (4) A self-hauler shall annually report the following to the jurisdiction in which it is located:

51 (A) The total amount of source separated organic waste in tons that was self-hauled; and,

52 (B) The location or address of each entity that accepted self-hauled waste from the generator.

53 (5) A residential organic waste generator that self-hauls organic waste is not required to record or report
54 the information identified in subdivision (b)(3) and (b)(4).

55 (c) A generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this
56 division and is not a business subject to the requirements of Section 42649.81 of the Public Resources Code is
57 not required to comply with the requirements of this section.

1
2 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

3
4 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
5 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
6 39730.6, 39730.7 and 39730.8.

7
8 **Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program**

9 (a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the
10 Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not
11 limited to copies of:

12 (1) Ordinances, contracts, franchise agreements, policies procedures, or programs relevant to this section.

13 (2) A description of the jurisdiction's hauler program including:

14 (A) Type of hauler systems the jurisdictions uses.

15 (B) Type and conditions of approvals per type of hauler, and criteria for approvals, denials and
16 revocations.

17 (C) Process for issuing, revoking, and denying written approvals.

18 (D) Any requirements associated with self-hauling and back-hauling.

19 (3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the
20 following information:

21 (A) Copies of all reports required by haulers.

22 (B) Copies of reports from self-hauler as required by Section 18988.3.

23 (C) Copies of all written approvals, denials, and revocations.

24 (b) All records required by this article shall include the date of action, the name of the hauler, and the type of
25 the action taken by the jurisdiction.

26
27 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

28
29 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
30 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
31 39730.6, 39730.7 and 39730.8.

32
33 **Article 8. Cal-Green Building Standards**

34
35 **Section 18989.1. CalGreen Building Codes**

36 (a) A jurisdiction shall adopt an ordinance or other enforceable requirement that requires compliance with the
37 following provisions of the California Green Building Standards Code:

38 (1) Section 4.410.2 Recycling by Occupants Residential or 5.410.1 Recycling by Occupants Non-residential.

39 (2) For organic waste commingled with construction and demolition debris, Section 4.408.1 Construction
40 Waste Management Residential or 5.408.1 Construction Waste Management non-residential.

41
42 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

43
44 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
45 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
46 39730.6, 39730.7 and 39730.8.

47
48 **Article 9. Locally Adopted Standards and Policies**

49
50 **Section 18990.1. Organic Waste Recovery Standards and Policies**

51 (a) Nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more
52 stringent than the requirements of this chapter, except as provided in subdivision (b) of this section.

53 (b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative
54 that includes provisions that do any of the following:

55 (1) Prohibit the lawful processing and recovery of organic waste through a method identified in Article 2 of
56 this chapter.

57 (2) Limit a particular solid waste facility, operation, property, or activity from accepting organic waste
58 imported from outside of the jurisdiction for processing or recovery.

- 1 (3) Limit the export outside of organic waste to a facility, operation, property or activity outside of the
2 jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter.
3 (4) Require a generator or a hauler to transport organic waste to a solid waste facility or operation that does
4 not process or recover organic waste.
5 (5) Require a generator to use an organic waste collection service or combination of services that do not
6 recover at least the same types of organic waste recovered by a service the generator previously had in
7 place.

8 (c) This section does not do any of the following:

- 9 (1) Require a solid waste facility or operation to accept organic waste that does not meet the quality
10 standards established by the solid waste facility or operation.
11 (2) Prohibit a jurisdiction from arranging with a solid waste facility or operation to guarantee permitted
12 capacity for organic waste from the jurisdiction.
13 (3) Supersede or otherwise affect: the land use authority of a jurisdiction, including, but not limited to,
14 planning, zoning, and permitting; or an ordinance lawfully adopted pursuant to that land use authority
15 consistent with this section.
16 (4) Prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic
17 waste to a particular solid waste facility or operation for processing or recovery.
18 (5) Exempt a jurisdiction, generator, or hauler from compliance with regulations in Division 4.5 of Title 22 of
19 the California Code of Regulations relative to the proper handling of hazardous or universal waste pursuant,
20 or regulations in Title 3. Food and Agriculture, Division 2. Animal Industry, Chapter 4. Meat Inspection,
21 Subchapter 2. Rendering and Pet Food, Article 48. General Provisions, 1180.48 Disposal of Parts and
22 Products of Animals Not Intended for Use as Human Food.

23
24 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

25
26 Reference: Public Resources Code Sections 40001, 40002, 40053, 40055, 41780.01, 42652.5, 42653, 42654,
27 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety
28 Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

29
30 **Section 18990.2. Edible Food Recovery Standards and Policies.**

- 31 (a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a
32 generator or food recovery organization to recover edible food that could be recovered for human consumption.
33 (b) A Local Education agency shall not implement or enforce an ordinance, policy, or procedure that prohibits
34 share tables or requires schools to adhere to a food safety standard not specified in the Part 7 of Division 104
35 of the Health and Safety Code.
36 (c) Nothing in this chapter shall be construed to limit or conflict with the provisions of the California Good
37 Samaritan Act of 2017 (the act). Specifically,
38 (1) Nothing in this chapter shall be construed to limit the amount or types of foods that may be donated
39 under the act.
40 (2) Nothing in this chapter shall be construed to limit the ability of a person, gleaner or food facility to donate
41 food as provided for in Section 114432 of the Health and Safety Code.
42 (3) Nothing in this chapter shall be construed to reduce the immunities provided by the California Good
43 Samaritan Act as specified in Section 114434 of the Health and Safety Code.
44 (d) Nothing in this chapter prohibits an edible food recovery service or organization from refusing to accept
45 edible food from a generator.

46
47 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

48
49 Reference: Public Resources Code Sections 40001, 40002, 40053, 40055, 41780.01, 42652.5, 42653, 42654,
50 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety
51 Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

52
53 **Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery**

54
55 **Section 18991.1. Jurisdiction Edible Food Recovery Program**

- 56 (a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the
57 jurisdiction plans to take to accomplish the following:
58 (1) Educate commercial edible food generators as set forth in Section 18985.2.

1 (2) Increase commercial edible food generators access to edible food recovery organizations and edible
2 food recovery services.

3 (3) Monitor commercial edible food generators compliance as required in Article 14.

4 (4) Increase edible food recovery capacity if the analysis required by Section 18992.1 indicates that the
5 jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

6 (b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local
7 assessments, or other funding mechanisms.

8
9 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

10
11 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
12 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
13 39730.6, 39730.7 and 39730.8.

14
15 **Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program**

16 (a) A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the
17 Implementation Record required by Section 18995.2 of this chapter and shall also include at a minimum:

18 (1) A list of commercial edible food generators in the jurisdiction that have arrangements with edible food
19 recovery organizations or services.

20 (2) A list of edible food recovery organizations in the jurisdiction and their edible food recovery capacity.

21 (3) Documentation of the actions the jurisdiction has taken to increase edible food recovery capacity.

22
23 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

24
25 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
26 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
27 39730.6, 39730.7 and 39730.8.

28
29 **Section 18991.3. Commercial Edible Food generators**

30 (a) Tier One commercial edible food generators shall comply with the requirements of this section commencing
31 January 1, 2022. Tier two commercial edible food generators shall comply with the requirements of this section
32 commencing January 1, 2024.

33 (b) Commercial edible food generators shall arrange to recover edible food that would otherwise be disposed in
34 a manner that is appropriate for that business. An edible food generator may comply with the requirements of
35 this section through any of the following:

36 (1) Contracting with food recovery services or organizations that will collect their edible food for food
37 recovery.

38 (2) Self-hauling edible food to a food recovery organization that will accept the edible food for food recovery.

39 (3) A large venue or large event operator that does not provide food services, but allows for food to be
40 provided, shall require food facilities operating at the event to comply with the requirements of this section

41 (c) An edible food generator shall not intentionally spoil edible food that is capable of being recovered by a food
42 recovery organization or service.

43
44 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

45
46 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
47 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
48 39730.6, 39730.7 and 39730.8.

49
50 **Section 18991.4. Record Keeping Requirements For Commercial Edible Food Generators**

51 (a) A commercial edible food generator subject to the requirements in this article shall keep a record that
52 includes the following:

53 (1) A list of each food recovery service or organization that collects or receives its edible food.

54 (2) A copy of contracts, written agreements, or other documents between the edible food generator and a
55 food recovery service or organization.

56 (3) An edible food generator that complies with the requirements of this article through contracting with a
57 food recovery service or organization as allowed in Section 18991.3 shall keep a record of the following for
58 each food recovery organization or service that the edible food generator contracts with:

59 (A) The name, address and contact information of the service or organization.

- 1 (B) The types of food that will be collected by or transported to the service or organization.
2 (C) The established frequency that food will be collected or transported.
3 (D) The quantity of food collected or transported to a service or organization for food recovery.
4 1. Quantity shall be measured in pounds recovered per month.
5 2. An edible food generator may use an alternative metric provided by the food recovery service or
6 organization to measure the quantity of food recovered.
7

8 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
9

10 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
11 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
12 39730.6, 39730.7 and 39730.8.
13

14 **Section 18991.5. Edible Food Recovery Services and Organizations**

- 15 (a) A food recovery organization or service that collects or receives 6 tons or more of edible food from edible
16 food generators per year shall maintain a record that includes all of the following:
17 (1) The name, address and contact information for each edible food generator the service or organization
18 collects or receives edible food from.
19 (2) The quantity in pounds of edible food collected from each edible food generator per month.
20 (3) The quantity in pounds of edible food transported to each edible food recovery organization per month.
21 (4) The total number of meals served per month if applicable.
22 (5) For a food recovery service, the name, address and contact information for each food recovery
23 organization that the service transports edible food for food recovery.
24

25 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
26

27 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
28 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
29 39730.6, 39730.7 and 39730.8.
30

31 **Article 11. Organic Waste Recycling Capacity Planning**

32 **Section 18992.1. Organic Waste Recycling Capacity Planning**

- 33 (a) Counties, in coordination with cities and regional agencies located within the county, shall:
34 (1) Estimate the amount of all organic waste in tons that will be disposed by the county and cities by:
35 (A) Multiplying the percentage of organic waste reported as disposed in the Department's most recent
36 waste characterization study by the total amount of disposal attributed to the county and each
37 jurisdiction located within the county by the Recycling and Disposal Reporting System; or
38 (B) Using a jurisdiction-specific waste characterization study for the tons disposed by the county or a
39 jurisdiction within the county if the study is more recent than the Department's most recent waste
40 characterization study. A jurisdiction-specific study shall include a statistically significant sampling of
41 solid waste disposed of by the jurisdiction.
42 (2) Identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the
43 county and outside of the county, that is verifiably available to the county and jurisdictions located within the
44 county.
45 (A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through
46 a contract, permit, franchise, or other documentation of the following:
47 1. A guarantee of access to existing permitted or authorized capacity at a facility, activity, operation,
48 or property that recovers organic waste.
49 2. A guarantee of access to new or expanded capacity at a facility, activity, operation, or property
50 that recovers organic waste that will be available prior to the end of the reporting period.
51 (3) Estimate the amount of new or expanded organic waste recycling facility capacity that will be needed to
52 process the organic waste identified pursuant to subsection (1) in addition to the existing capacity identified
53 in subsection (2).
54 (b) A city or regional agency contacted by a county pursuant to subdivision (a) shall respond to the county's
55 request for the information necessary to comply with the requirements of this article within 120 days of
56 receiving the request from the county.
57 (c) In complying with this section the county shall:
58

1 (1) Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the
2 Public Resources Code on the status of locations for new or expanded solid waste facilities including the
3 potential capacity increase each facility may provide if approved.

4 (2) Consult with haulers and owners of facilities, operations, and activities that recover organic waste
5 including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment
6 Works to gather information on the existing capacity and potential new or expanded capacity at those
7 facilities, operations, and activities.

8 (A) Entities contacted by a jurisdiction shall respond to the jurisdiction regarding potential new or
9 expanded capacity at their facilities, operations, and activities, including information about throughput
10 and permitted capacity necessary for planning purposes.

11 (3) Conduct community outreach regarding locations being considered for new or expanded facilities,
12 operations, or activities to seek feedback on the benefits and impacts that may be associated with new or
13 expanded facilities, operations, or activities. The community outreach shall:

14 (A) Include at least one of the following forms of communication: public workshops or meetings, print
15 noticing, and electronic noticing.

16 (B) If applicable be conducted in coordination with potential solid waste facility operators that may use
17 the location identified by the county.

18 (C) Specifically include communication to disadvantaged communities that may be impacted by the
19 development of new facilities at the locations identified by the county. If more than five percent of that
20 community is defined as "Limited English Speaking Households" or "linguistically isolated," as defined by
21 the U.S. Census Bureau, the jurisdiction shall provide the information required by this section in a
22 language or languages that will assure that the information is understood by that community.

23 (4) Consult with community composting operators to estimate the amount of organic waste the county
24 anticipates will be handled at community composting activities.

25 (d) If a county determines that organic waste recycling capacity, in addition to the existing and proposed
26 capacity identified pursuant to subsection (a), is needed within that county, the county shall notify the
27 jurisdiction or jurisdictions that lack sufficient capacity that each jurisdiction is required to:

28 (1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is
29 enough new or expanded capacity to recover the organic waste currently disposed of by generators within
30 their jurisdiction by the end of the report period.

31 (A) The implementation schedule shall include timelines and milestones for planning efforts to access
32 additional new or expanded capacity, including, but not limited to:

33 1. Obtaining funding for organic waste recycling infrastructure, including, but not limited to, modifying
34 franchise agreements or demonstrating other means of financially supporting the expansion of
35 organic waste recycling.

36 2. Identification of facilities, operations, and activities that could be used for additional capacity.

37 (2) Identify proposed new or expanded organic waste recycling facilities that will be used to process the
38 organic waste identified pursuant to subsection (a)(3).

39 (3) The county shall notify the jurisdiction at the same time it submits the report to the Department required
40 pursuant to Section 18992.3.

41 (e) For the purposes of this section, organic waste shall only include the following type of organic waste: food,
42 green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and
43 biosolids.

44
45 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

46
47 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
48 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
49 39730.6, 39730.7 and 39730.8.

50
51 **Section 18992.2. Edible Food Recovery Capacity**

52 (a) Counties, in coordination with cities and regional agencies located within the county, shall:

53 (1) Estimate the amount of edible food that will be disposed of by commercial edible food generators that
54 are located within the county and jurisdictions within the county.

55 (2) Identify existing capacity at edible food recovery organizations that is available to commercial edible
56 food generators located within the county and jurisdictions within the county.

57 (3) Identify proposed new or expanded edible food recovery organizations that will be used to process
58 edible food identified pursuant to subsection (1).

1 (4) Identify the amount of capacity at edible food recovery organizations that is necessary to recover 20
2 percent of the edible food that is estimated to be disposed.

3 (b) If a county identifies that new or expanded capacity is needed to recover the amount of edible food
4 identified in (a)(4), then each jurisdiction within that county that lacks capacity shall.

5 (1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is
6 enough new or expanded capacity to recover the edible food currently disposed of by commercial edible
7 food generators within its jurisdiction by the end of the reporting period set forth in Section 18992.3 of this
8 article.

9 (A) The implementation schedule shall include timelines and milestones for planning efforts to access
10 additional new or expanded capacity, including, but not limited to:

11 1. Obtaining funding for edible food recovery infrastructure, including but not limited to, modifying
12 franchise agreements or demonstrating other means of financially supporting the expansion of edible
13 food recovery capacity.

14 2. Identification of facilities, operations, and activities inside the county that could be used for
15 additional capacity.

16 (2) Consult with edible food recovery organizations and edible food recovery services regarding existing, or
17 proposed new and expanded, capacity that could be accessed by the jurisdiction and its commercial edible
18 food generators.

19
20 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

21
22 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
23 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
24 39730.6, 39730.7 and 39730.8.

25 26 **Section 18992.3. Schedule For Reporting**

27 (a) Counties, in coordination with cities and regional agencies located within the county shall conduct the
28 planning requirements of Sections 18992.1 and 18992.2, on the following schedule.

29 (1) February 1, 2022 counties shall report to CalRecycle on the period covering January 1, 2022 through
30 December 31, 2024.

31 (2) August 1, 2024 shall report to CalRecycle on the period covering January 1, 2025 through December
32 31, 2034.

33 (3) August 1, 2029 shall report to CalRecycle on the period covering January 1, 2030 through December
34 31, 2039.

35 (4) August 1, 2034 shall report to CalRecycle on the period covering January 1, 2035 through December
36 31, 2044.

37 (b) If a jurisdiction is required to submit an implementation schedule pursuant to Section 18992.1 or 18992.2
38 the implementation schedule shall be submitted 120 days following the date the county submitted the report to
39 CalRecycle.

40
41 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

42
43 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
44 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
45 39730.6, 39730.7 and 39730.8.

46 47 **Article 12. Procurement of Recovered Organic Waste Products**

48 49 **Section 18993.1. Recovered Organic Waste Product Procurement Target**

50 (a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity
51 of recovered organic waste products that meets or exceeds its current annual recovered organic waste product
52 procurement target as determined by this article.

53 (b) Annually, the Department shall assign and provide notice of the annual recovered organic waste product
54 procurement target for each jurisdiction, which shall be calculated by multiplying the per capita procurement
55 target by the jurisdiction population where:

56 (1) Per capita procurement target = 0.07 tons of organic waste per California resident per year.

57 (2) Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual
58 data reported by the California Department of Finance.

1 (c) The Department shall provide notice to each jurisdiction of its annual recovered organic waste product
2 procurement target by posting such information on the Department's website and providing written notice
3 directly to the jurisdiction.

4 (d) Beginning January 1, 2022 and every five years thereafter, the Department shall recalculate the annual
5 recovered organic waste product procurement target for each jurisdiction according to the requirements of
6 subdivision (b).

7 (e) A jurisdiction shall comply with subdivision (a) by one or both of the following:

8 (1) Directly procuring recovered organic waste products.

9 (2) Requiring, through a written contract, that a direct service provider to the jurisdiction procure recovered
10 organic waste products and provide written documentation of such procurement to the jurisdiction.

11 (f) For the purposes of this article, the recovered organic waste products that must be procured are:

12 (1) Compost.

13 (2) Renewable transportation fuel

14 (g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste
15 product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products:

16 (1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:

17 (A) 19 diesel gallon equivalents, or "DGE," of renewable transportation fuel.

18 (B) 0.58 tons of compost.

19 (h) If a jurisdiction's annual recovered organic waste product procurement target exceeds the jurisdiction's total
20 procurement of transportation fuel and renewable transportation fuel from the previous calendar year as
21 determined by the conversion factors in subdivision (g), the jurisdiction is only required to procure recovered
22 organic waste products described in (f) in an amount equal to its total purchase of transportation fuel and
23 renewable transportation fuel from the previous year.

24 (i) A jurisdiction shall identify additional procurement opportunities within the jurisdictions' departments and
25 divisions for expanding the use of recovered organic waste products..

27 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

29 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
30 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
31 39730.6, 39730.7 and 39730.8.

33 **Section 18993.2. Record Keeping Requirements For Recovered Organic Waste Procurement Target**

34 (a) A jurisdiction shall include all documents supporting its compliance with this article in the implementation
35 record required by Section 18995.2 of this chapter, including, but not limited to, the following:

36 (1) A description of how the jurisdiction will comply with the requirements of this article.

37 (2) The name, physical location, and contact information of the entity from whom the recovered organic
38 waste products were procured.

39 (3) All invoices or similar records evidencing all procurement; and

40 (4) If a jurisdiction will include procurement of recovered organic waste products made by a direct service
41 provider to comply with this article, the jurisdiction shall include all records of procurement of recovered
42 organic waste products made by the direct service provider on behalf of the jurisdiction including invoices or
43 similar records evidencing procurement

44 (5) If a jurisdiction will include transportation fuel procured from a POTW, a written certification by an
45 authorized representative of the POTW of the tons of landfill-diverted organic waste processed into
46 renewable gas provided to the jurisdiction. The certification shall be furnished under penalty of perjury in a
47 form and manner determined by the jurisdiction.

49 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

51 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
52 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
53 39730.6, 39730.7 and 39730.8.

55 **Section 18993.3. Recycled Content Paper Procurement Requirements**

56 (a) A jurisdiction shall procure paper products, and printing and writing paper, in compliance with this section.

57 (b) Commencing January 1, 2022, a jurisdiction shall comply with the following:

58 (1) At least 75 percent of a jurisdiction's annual purchases of paper products shall be recycled content
59 paper.

1 (2) At least 75 percent of a jurisdiction's annual purchases of printing and writing paper shall be recycled
2 content paper.

3 (3) Paper products and printing and writing paper shall be eligible to be labeled with an unqualified
4 recyclable label as defined in 16 Code of Federal Regulations (CFR) Section 260.12 (2013).

5 (c) A jurisdiction shall require all businesses from whom it purchases paper products and printing and writing
6 paper to certify in writing:

7 (1) The minimum percentage, if not the exact percentage, of postconsumer material in the paper products
8 and printing and writing paper offered or sold to the jurisdiction. The certification shall be furnished under
9 penalty of perjury in a form and manner determined by the jurisdiction. A jurisdiction may waive the
10 certification requirement if the percentage of postconsumer material in the paper products, printing and
11 writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor
12 Internet website.

13 (2) That the paper products and printing and writing paper offered or sold to the jurisdiction is eligible to be
14 labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12 (2013).

15
16 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5, and Health and Safety
17 Code Section 39730.6.

18
19 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
20 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
21 39730.6, 39730.7 and 39730.8.

22 23 **Section 18993.4. Record Keeping Requirements for Recycled Content Paper Procurement**

24 (a) A jurisdiction shall include all documents supporting its compliance with this article in the implementation
25 record required by Section 18995.2 of this chapter including, but not limited to, the following:

26 (1) Copies of invoices or receipts for all paper purchases.

27 (2) Copies of all certifications or other verification required under Section 18993.3.

28
29 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

30
31 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
32 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
33 39730.6, 39730.7 and 39730.8.

34 35 **Article 13. Reporting**

36 37 **Section 18994.1. Initial Jurisdiction Compliance Report.**

38 (a) Each jurisdiction shall report to the Department on its implementation and compliance with the requirements
39 of this chapter. Each jurisdiction shall report to the Department by February 1, 2022 the following information:

40 (1) A copy of ordinances adopted pursuant to this chapter.

41 (2) The date that the jurisdiction will ensure that all containers used by generators subject to the
42 jurisdiction's authority will be in compliance with the container color requirements as specified in Section
43 18984.7.

44 (3) The reporting items identified in Section 18994.2.

45
46 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

47
48 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
49 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
50 39730.6, 39730.7 and 39730.8.

51 52 **Section 18994.2. Jurisdiction Annual Reporting**

53 (a) Commencing August 1, 2022, and annually thereafter, a jurisdiction shall report the information required by
54 this section. The report submitted in 2022 shall cover the period of January 1, 2022–June 30, 2022. Each
55 subsequent report shall cover the entire previous calendar year.

56 (b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection
57 requirements of Article 3 of this chapter:

58 (1) The type of organic waste collection service(s) provided by the jurisdiction to its generators.

- 1 (2) The total number of generators that receive each type of organic waste collection service provided by
2 the jurisdiction.
- 3 (3) If the jurisdiction is implementing an organic waste collection service that requires transport of the
4 contents of containers to a high diversion organic waste processing facility, the jurisdiction shall identify the
5 Recycling and Disposal Reporting System Number of each facility that receives organic waste from the
6 jurisdiction.
- 7 (c) Each jurisdiction shall report the following, relative to its implementation of the contamination monitoring
8 requirements of Article 3.
- 9 (1) The number of route reviews conducted for prohibited container contaminants.
- 10 (2) The number of times notices, violations, or targeted education materials were issued to generators for
11 prohibited container contaminants.
- 12 (3) The number of notifications received from a solid waste facility operator regarding prohibited container
13 contaminants received at the facility pursuant to Section (17409.5.7).
- 14 (d) Each jurisdiction shall report the following relative to its implementation of waivers pursuant to Article 3.
- 15 (1) The number of days an emergency circumstances waiver as allowed in 18984.13 was in effect and the
16 type of waiver issued.
- 17 (2) The tons of organic waste that were disposed as a result of waivers identified in (1).
- 18 (3) The number of generators issued a de-minimis waiver.
- 19 (4) The number of generators issued a physical space waiver.
- 20 (5) A jurisdiction that receives a waiver from the Department pursuant to Section 18984.12 of Article 3 shall
21 report the following information for each year the waiver is in effect:
- 22 (A) The number of generators waived from the requirement to subscribe to an organic waste collection
23 service.
- 24 (e) A jurisdiction shall report the following regarding its implementation of education and outreach required in
25 Article 4.
- 26 (1) The number of organic waste generators and edible food generators that received information and the
27 type of education and outreach used.
- 28 (2) The number of limited English speaking and linguistically isolated households that received information
29 required by Article 4.
- 30 (f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of
31 Article 7:
- 32 (1) The number of haulers approved to collect organic waste in the jurisdiction.
- 33 (2) The Recycling and Disposal Reporting System number of each facility that is receiving organic waste
34 from haulers approved by the jurisdiction.
- 35 (3) The number of haulers that have had their approval revoked or denied.
- 36 (4) The number of self-haulers approved to operate within the jurisdiction.
- 37 (5) The total amount, in tons, of source separated organic waste that was self-hauled by organic waste
38 generators and reported to the jurisdiction pursuant to Section 18988.3.
- 39 (g) A jurisdiction shall report the following regarding its implementation of the Cal-Green Building Standards as
40 required in Article 8:
- 41 (1) The number of construction and demolition debris removal activities conducted in compliance with
42 Section 18989.1 of this chapter.
- 43 (h) A jurisdiction shall report the following regarding its implementation of the edible food recovery requirements
44 of Article 10.
- 45 (1) The number of commercial edible food generators located within the jurisdiction.
- 46 (2) The number of food recovery services and organizations located and operating within the jurisdiction
47 that collect or receive more than 6 tons of food per year.
- 48 (A) A jurisdiction shall require food recovery organizations and services that are located within the
49 jurisdiction and collect or receive 6 tons or more of edible food per year to report the amount of edible
50 food recovered by the service or organization in the previous calendar year to the jurisdiction.
- 51 (3) The jurisdiction shall report on the total amount of edible food recovered by edible food recovery
52 organizations and services that are located within its jurisdiction.
- 53 (i) A jurisdiction shall report the following regarding its implementation of the organic waste recycling capacity
54 planning and edible food recovery capacity planning requirements of Article 11:
- 55 (1) A county shall report:
- 56 (A) The tons estimated to be generated for disposal.
- 57 (B) The amount of capacity verifiably available to the county and cities within the county.
- 58 (C) The amount of new capacity needed.
- 59 (D) The locations identified for new or expanded facilities.

1 (E) The jurisdictions that are required to submit implementation schedules.

2 (2) A jurisdiction that is required to submit an implementation schedule shall report the information required
3 in Sections 18992.1 (c) and 18992.2 (b) of this chapter.

4 (3) Notwithstanding (a), the information required by this subdivision shall be reported on the schedule
5 specified in Section 18992.3 of this chapter.

6 (j) A jurisdiction shall report the following regarding its implementation of the procurement requirements of
7 Article 12:

8 (1) The volume of each recovered organic waste product procured directly by the city, county, or through
9 direct service providers, or both during the prior calendar year.

10 (2) The total dollar amount spent on all paper purchases.

11 (3) The total dollar amount spend on all recycled content paper purchases.

12 (4) If the jurisdiction, pursuant to Section 18933.1(h), procures a reduced amount of recovered organic
13 waste transportation fuel, the jurisdiction shall report on the total volume of transportation fuel and
14 renewable transportation fuel procured in the previous year.

15 (5) Additional procurement opportunities identified within the jurisdiction's departments, as required in
16 Section 18993.1.

17 (k) A jurisdiction shall report the following regarding its implementation of the compliance, monitoring, and
18 enforcement requirements specified in Articles 14-16:

19 (1) The number of commercial businesses subject to compliance reviews and the number of violations
20 found and corrected through the compliance reviews.

21 (2) The number of route reviews conducted per calendar year.

22 (3) The number of inspections conducted by type for commercial edible food generators, food recovery
23 organizations, and commercial businesses, per calendar year.

24 (4) The number of complaints received, investigated, and violations found based on complaints per
25 calendar year.

26 (5) The number of Notices of Violation issued by type of entity (generator, hauler, edible food generators)
27 per calendar year.

28 (6) The number of penalties issued by type of entity (generator, hauler, edible food generators) per calendar
29 year.

30 (7) The number of entities by type (generator, hauler, edible food generators) that came into compliance in
31 the calendar year.

32
33 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

34
35 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
36 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
37 39730.6, 39730.7 and 39730.8.

38 **Article 14 Enforcement Requirements**

39 **Section 18995.1. Jurisdiction Inspection and Enforcement Requirements**

40
41 (a) On or before January 1, 2022, a jurisdiction shall have an inspection and enforcement program that ensures
42 compliance with this chapter and that at a minimum, includes the following requirements:

43 (1) On or before January 31, 2022, and at least annually thereafter, a jurisdiction shall conduct the
44 following:

45 (A) If the jurisdiction is using the compliance method described in Section 18984.1 or 18984.2 of this
46 division the jurisdiction shall:

47 1. Complete a compliance review of all garbage accounts for commercial businesses that are subject
48 to its authority, and that generate two cubic yards or more per week of solid waste and produce
49 organic waste; and, also determine their compliance with:

50 i. Organic waste generator requirements set forth in Section 18984.9.

51 ii. Self-haul requirements set forth in Section 18988.3, including whether a business is complying
52 through back-hauling organic waste.

53 2. Conduct route reviews of commercial businesses and residential areas for compliance with
54 organic waste generator requirements set forth in Section 18984.9 and container contamination
55 requirements set forth in Section 18984.5.

56 (B) If a jurisdiction is using the compliance method described in Section 18984.3 the jurisdiction shall
57 conduct a compliance review of all garbage accounts for commercial business that are subject to it's
58

1 authority, and generate two cubic yards or more per week of solid waste and produce organic waste;
2 and, also determine their compliance with:

3 1. Organic waste generator requirements set forth in Section 18984.9 and document if the business
4 is transporting the contents to a high diversion organic waste processing facility, or

5 2. Self hauling pursuant to Section 18988.3, including whether a business is complying through back-
6 hauling organic waste.

7 (2) Conduct inspections of Tier One commercial edible food generators and food recovery organizations for
8 compliance with this chapter. On or after January 1, 2024, conduct inspections of Tier Two commercial
9 edible food generators for compliance with Article 10.

10 (3) Conduct inspections, route reviews, or compliance reviews when investigating a complaint in
11 accordance with Section 18995.3 of this chapter.

12 (4) On and after January 1, 2022 and until January 1, 2024, if a jurisdiction determines that an organic
13 waste generator, self-hauler, hauler, or commercial edible food generator, or other entity is not in
14 compliance with this chapter, it shall provide educational material to the entity describing its obligations
15 under this chapter

16 (5) On and after January 1, 2024, if a jurisdiction determines that an organic waste generator, self-hauler,
17 hauler, or commercial edible food generator, or other entity is not in compliance with this chapter, it shall
18 document the violation and take enforcement action as set forth in Section 18995.4 of this chapter.

19 (6) Annually verify through inspection, annual review or route review businesses are meeting de minimis
20 and physical space waivers for compliance with the requirements of Section 18984.11.

21 (b) A jurisdiction shall conduct a sufficient number of compliance reviews, route reviews and inspections to
22 ensure compliance with this chapter. A jurisdiction shall inspect entities that it determines are more likely to be
23 out of compliance, based on complaints or reports that it receives from the haulers, facilities, or other
24 complainants, the jurisdiction's random route reviews, or other means.

25 (c) A jurisdiction shall generate a written report for each inspection, route review, and compliance review
26 conducted pursuant to this chapter. Each report shall include, at a minimum, the following information:

27 (1) Identifying information for the subject or subjects of the inspection, route review or compliance review,
28 such as, but not limited to:

29 (A) The name or account name of each person or entity.

30 (B) A description of the route and addresses covered by a route review.

31 (C) A list of accounts reviewed for each compliance review.

32 (2) The date or dates the inspection, route review, or compliance review was conducted.

33 (3) The person or persons who conducted the action.

34 (4) The jurisdiction's findings, including if there was compliance with or a violation of this chapter.

35 (5) Any supporting evidence or findings, such as photographs and account records.

36 (6) The route review records shall include locations of the route review(s), the source of contamination,
37 photographs, and notices or education materials given to generators.

38 (d) Copies of all reports of route reviews, compliance reviews, and inspections, as well as all other records of
39 enforcement conducted pursuant to this chapter shall be maintained in the Implementation Record required by
40 Section 18995.2 of this chapter, and shall include, but not be limited to:

41 (1) Copies of all documentation of route reviews, compliance reviews, and inspections.

42 (2) Copies of all enforcement actions required by Section 18995.4 of this chapter, including Notice of
43 Violations, subsequent notices, and penalties issued.

44 (3) A list of the date(s) the entities issued a Notice of Violation came into compliance and evidence that
45 supports compliance.

46 (4) Copies of notices and educational material provided as required by this section.

47 (e) Consistent with Section 18981. 2, a jurisdiction may have a designee conduct inspections required by this
48 section.

49
50 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

51
52 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
53 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
54 39730.6, 39730.7 and 39730.8.

55
56 **Section 18995.2. Implementation Record and Recordkeeping Requirements**

57 (a) A jurisdiction shall maintain all records required by this chapter in the Implementation Record in the
58 following manner:

1 (b) The Implementation Record shall be stored in one central location, physical or electronic, that can be readily
2 accessed by the Department. The jurisdiction shall provide its central location for records and a point of contact
3 to the Department to facilitate the Department's review of the records.

4 (c) Upon request by the Department, the jurisdiction shall provide access to the Implementation Record within
5 one business day.

6 (d) All records and information from each reporting period shall be included in the Implementation Record
7 within 30 days of the last day of the reporting period.

8 (e) All records shall be retained by the jurisdiction for five years.

9 (f) At a minimum, the following shall be included in the Implementation Record:

10 (1) A copy of all ordinances, enforceable mechanisms, contracts, or agreements, as required by this
11 chapter.

12 (2) A copy of the Jurisdiction's inspection and enforcement program that it uses to comply with Sections
13 18995.1 and 18995.4 of this chapter.

14 (3) All organic waste collection service records required by Section 18984.4 of this chapter.

15 (4) All contamination minimization records required by Section 18984.6 of this chapter.

16 (5) All waiver and exemption records required by Section 18984.14 of this chapter.

17 (6) All education and outreach records required by Section 18985.3 of this chapter.

18 (7) All hauler program records required by Section 18988.4 of this chapter.

19 (8) All jurisdiction edible food recovery program records required by Section 18991.2 of this chapter.

20 (9) All recovered organic waste procurement target records required by Section 18993.2 of this chapter.

21 (10) All recycled content paper procurement records required by Section 18993.5 of this chapter.

22 (11) All inspection, route review, and compliance review reports generated pursuant to the requirements of
23 Section 18995 (e) of this chapter.

24 (12) All records of enforcement actions undertaken pursuant to this chapter.

25 (13) All records of complaints and investigations of complaints required by Section 18995.3 of this chapter
26 and compliance with the Jurisdiction's Inspection and Enforcement requirements of Sections 18995.1(e)
27 and 18995.3(g) of this chapter.

28 (g) All records maintained in the Implementation Record shall be subject to the requirements and exemptions of
29 the Public Records Act set forth in Government Code Section 6250 et seq.

30 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

31
32
33 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
34 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
35 39730.6, 39730.7 and 39730.8.

36 **Section 18995.3. Jurisdiction Investigation of Complaints of Alleged Violations**

37
38 (a) Any person having information that an entity is in violation of this chapter, may file a complaint with the
39 jurisdiction, in a manner specified by the jurisdiction. The jurisdiction may request that the complaint include the
40 following:

41 (1) The name and contact information of the complainant.

42 (2) The identity of the entity allegedly in violation and location and description of the violation.

43 (3) All known facts relevant to the alleged violation including, but not limited to, information relating to
44 witnesses and physical evidence.

45 (b) Upon request, the jurisdiction shall ensure that the name and contact information of a complainant remain
46 confidential.

47 (c) The Department may also file, or forward, a complaint to the jurisdiction.

48 (d) Upon receipt of a complaint, a jurisdiction shall, within 90 days, investigate the complaint if it determines
49 that the allegations, if true, would constitute a violation.

50 (e) The jurisdiction shall provide a method for a complainant to find out the results of their complaint.

51 (f) The jurisdiction shall maintain records of all complaints and responses pursuant to this section in the
52 Implementation Record set forth in Section 18995.2 of this chapter. The records shall include the complaint as
53 received, the date the jurisdiction investigated the complaint, the jurisdiction's determination of compliance or
54 notice of violations issued.

55 (g) If a jurisdiction determines that a violation has occurred, it shall take enforcement action as required by this
56 chapter.

57
58 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

59

1 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
2 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
3 39730.6, 39730.7 and 39730.8.

4
5 **Section 18995.4. Enforcement by a Jurisdiction**

6 (a) If an entity has been found in violation of this chapter after January 1, 2024, the jurisdiction shall take
7 enforcement action as set forth in this section.

8 (1) The jurisdiction shall issue a Notice of Violation to any entity found in violation within 60 days after
9 determining that a violation has occurred.

10 (2) The jurisdiction shall conduct follow-up inspections to determine if compliance is achieved, at least every
11 90 days following the date of the first Notice of Violation, and continue to issue Notices of Violation until
12 compliance is achieved or a penalty has been issued.

13 (3) The jurisdiction shall commence actions to impose a penalty pursuant to Article 16 on the entity within
14 the following timeframes:

15 (A) For a first violation no later than 150 days after the issuance of the Notice of Violation.

16 (B) For a second violation and all subsequent violations, no later than 90 days after the issuance of the
17 Notice of Violation.

18 (4) The jurisdiction may seek equivalent or stricter nonmonetary remedies to those set forth in Section
19 18997.2 of this chapter.

20 (b) The jurisdiction may grant extensions to the compliance deadlines set forth in subsection (a) if it finds that:

21 (1) The entity has made an effort but has failed to comply within the deadline due to extenuating
22 circumstances outside its control. Examples of extenuating circumstances include acts of God such as
23 inclement weather or earthquakes and delays in obtaining discretionary permits or other government
24 agency approvals, but where the entity's actions or failure to act was not the cause of the delay; or,

25 (2) The entity's compliance is not possible due to limitations in infrastructure, and the jurisdiction in which it
26 resides is under a Corrective Action Plan (CAP) pursuant to Section 18996.2 due to long-term infrastructure
27 or capacity deficiencies.

28 (c) A jurisdiction shall provide the following information in any Notice of Violation or other enforcement notices:

29 (1) The account name, name, or names of each person or entity to whom it is directed. Notices must go to
30 the legally responsible party, such as business owner, service account holder, property owner, etc.

31 (2) The list and description of the violations of this chapter, including the local ordinance being violated.

32 (3) A compliance date by which the operator is to take specified action(s).

33 (4) The penalty for not complying within the specified compliance date.

34 (d) A jurisdiction may, but is not required to, seek penalties pursuant to this section for a violation of the
35 container contamination requirements authorized by Section 18984.5(b)(3).

36
37 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

38
39 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
40 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
41 39730.6, 39730.7 and 39730.8.

42
43 **Article 15. Enforcement Oversight by the Department**

44
45 **Section 18996.1. Department Evaluation of Jurisdiction Compliance**

46 (a) The Department shall evaluate a jurisdiction's compliance with this chapter as set forth in this article.

47 (b) In conducting a compliance evaluation, the Department shall review the jurisdiction's Implementation
48 Record and conduct inspections, compliance reviews, and route reviews.

49 (c) The Department shall notify the jurisdiction prior to conducting an evaluation.

50 (d) A summary of the Department's findings shall be provided in writing to the jurisdiction.

51 (e) If the Department determines at any time that an ordinance adopted by a jurisdiction is inconsistent with or
52 does not meet the requirements set forth in this chapter, the Department shall notify the jurisdiction and provide
53 an explanation of the deficiencies. The jurisdiction shall have 90 days from that notice to correct the
54 deficiencies. If the jurisdiction does not, the Department may commence enforcement actions as set forth in
55 Section 18996.2 of this chapter.

56
57 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
58

1 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
2 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
3 39730.6, 39730.7 and 39730.8.

4
5 **Section 18996.2. Department Enforcement Action Over Jurisdictions**

6 (a) If the Department finds that a jurisdiction is violating one or more of the requirements of this chapter, then
7 the Department may take the following actions:

8 (1) Issue a Notice of Violation requiring compliance within 90 days. An extension may be granted for an
9 additional 90 days, if the jurisdiction submits a written request to the Department within 60 days of the
10 Notice of Violation's issuance that includes:

11 (A) Evidence that additional time is needed to comply.

12 (B) The steps the jurisdiction will take to correct the violation, including demonstration that it can comply
13 within 180 days of the Notice of Violation's issuance date.

14 (2) The Department may extend the timeframe for a jurisdiction to comply beyond 180 days from the Notice
15 of Violation issuance date by issuing a Corrective Action Plan (CAP) for up to 24 months, setting forth steps
16 to achieve compliance, if the jurisdiction has demonstrated, that it has made a substantial effort to comply
17 and there are extenuating circumstances that have prevented it from complying.

18 (A) A jurisdiction shall submit a written request for the extension at least 30 days prior to the Notice of
19 Violation final compliance date. The request shall provide documentation demonstrating its substantial
20 effort to comply, and the extenuating circumstances which prevents it from complying, and identify the
21 critical milestones that the jurisdiction would need to meet in order to comply within 24 months.

22 1. If a jurisdiction claims that the cause of the delay is inadequate capacity of organic waste recovery
23 facilities, it shall document the lack of capacity and demonstrate that it has provided service where
24 possible and that it has only delayed compliance with this chapter for areas where service cannot be
25 provided due to capacity limits. Implementation schedules, under Article 11, may be considered for
26 purposes of developing a Corrective Action Plan; however, the Department may set compliance
27 milestones other than those provided in the Implementation Schedule.

28 (B) For the purposes of this section, "substantial effort" means that a jurisdiction has taken all practicable
29 actions to comply. Substantial effort does not include circumstances where a decision-making body of a
30 jurisdiction has not taken the necessary steps to comply with the chapter, including, but not limited to, a
31 failure to provide staff resources, a failure to provide sufficient funding to assure compliance, or failure to
32 adopt required ordinances.

33 (C) For the purposes of this section, "extenuating circumstances" means that a delay in compliance has
34 been caused by:

35 1. Circumstances outside of a jurisdiction's control; including acts of God and declared emergencies
36 such as earthquake, fires, flooding, or delays in obtaining discretionary permits or other government
37 agency approvals.

38 2. A long term infrastructure or capacity change which requires a corresponding longer length of time
39 to achieve compliance.

40 (D) For the purposes of this section, "critical milestones" means all actions necessary for a jurisdiction to
41 comply, including, but not limited to, receiving approval by decision-making bodies, permit application
42 submittals and obtaining approvals, and tasks associated with the local contract approvals.

43 (3) A Corrective Action Plan shall be issued by the Department for no longer than 24 months and shall
44 include compliance dates for each milestone that describe the tasks and timeframe the jurisdiction needs to
45 take to achieve full compliance by a final compliance date. The Corrective Action Plan shall include the
46 penalties that may be imposed if a jurisdiction fails to comply by the final compliance date and may also
47 include penalties for failing to meet milestones by the specified dates.

48
49 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

50
51 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
52 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
53 39730.6, 39730.7 and 39730.8.

54
55 **Section 18996.3. Department Enforcement When Jurisdiction fails to Enforce**

56 (a) If a jurisdiction fails to enforce the requirements set forth in this chapter, the Department may take
57 enforcement action against an entity pursuant to Section 18996.9 of this chapter and also enforcement action
58 against the jurisdiction pursuant to this article after providing the jurisdiction with:

59 (1) Written documentation of its lack of appropriate enforcement action.

- 1 (2) A written request to take enforcement action against the entity pursuant to Article 14 of this chapter or
2 evidence within 60 days that the entity is in compliance.
3 (b) The Department may seek administrative penalties against the jurisdiction pursuant to Article 16 if the
4 jurisdiction fails to take enforcement action as requested pursuant to subsection (a) (2).
5

6 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
7

8 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
9 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
10 39730.6, 39730.7 and 39730.8.

11 **Section 18996.4. Access for Inspection by the Department**

12 (a) Upon presentation of proper credentials, an authorized Department employee or agent shall be allowed to
13 enter an entity's premises during normal working hours to conduct inspections and investigations in order to
14 examine organic waste recovery activities, edible food recovery activities, and records pertaining to the entity in
15 order to determine compliance with this chapter. Methods may include, but are not limited to, allowing the
16 review or copying, electronically or through mechanical methods (i.e., photocopying) of any paper, electronic,
17 or other records required by this chapter, such as invoices, memoranda, books, papers, or records.

18 (1) This subdivision is not intended to permit an employee or agent of the Department to enter a residential
19 property.
20

21 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
22

23 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
24 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
25 39730.6, 39730.7 and 39730.8.
26

27 **Section 18996.5. Enforcement Actions Against Organic Waste Generators Located In Multiple**
28 **Jurisdictions and Non-Local Entities**

29 (a) If a jurisdiction believes that an organic waste generator, including a commercial edible food generator, that
30 has locations in more than one jurisdiction, has violated a requirement of this chapter, and the jurisdiction has
31 reason to believe that the entity is also violating that requirement in another jurisdiction, or a jurisdiction
32 believes a non-local entity within its jurisdiction has violated a requirement of this chapter, the jurisdiction may
33 refer the matter to the Department for review and enforcement action.

34 (b) Prior to making a referral to the Department for an entity that has locations in more than one jurisdiction, a
35 jurisdiction shall inspect the entity within its jurisdiction and, at a minimum, issue a Notice of Violation if it finds
36 that a violation has occurred. The referral must include, at a minimum, the name and location of the entity, a
37 copy of the Notice of Violation issued, all evidence collected, and any correspondence with the entity.

38 (c) If the Department finds that at an organic waste generator that has locations in more than one jurisdiction,
39 or a non-local entity has not complied with the requirements of this chapter, it may take enforcement pursuant
40 to this article and Article 16 of this chapter.

41 (d) If the Department determines the referral does not meet the requirements of this section, the Department
42 may refer the matter back to the jurisdiction for enforcement action.

43 (e) If the Department determines that the referral meets the requirements of this section, and takes
44 enforcement action based on the referral, the jurisdiction shall suspend its enforcement actions related to the
45 entity.
46

47 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
48

49 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
50 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
51 39730.6, 39730.7 and 39730.8.
52

53 **Section 18996.6. Department Inspections and Compliance Reviews of State Agencies and Facilities**

54 (a) If the Department finds that a state agency or state facility is violating Article 5, or Article 10 of this chapter,
55 then the Department may take the following progressive enforcement actions:

56 (1) Issue a Notice of Violation requiring compliance within 90 days. If the state agency or state facility
57 provides sufficient evidence that additional time is needed to comply, it may request, and the Department
58 may grant an additional 180-day extension. The state agency or state facility extension request shall include:

1 (A) An explanation of why the violations have occurred, and all steps that have been taken to comply
2 with this chapter.

3 (B) An explanation as to why it cannot correct the violation by the compliance date.

4 (C) A proposed set of tasks and milestones necessary for the state agency or state facility to comply and
5 an explanation and justification of the proposed timeline.

6 (D) Any additional information that supports the request to delay enforcement action.

7 (2) If the Department issues a Notice of Violation to a state agency or facility it shall include, but is not be
8 limited to:

9 (A) A description of the violation and regulatory section that is the basis of the violation.

10 (B) Identification of the actions the state agency or state facility shall take to correct the violation(s).

11 (C) The timeframe in which each of the actions must be taken.

12 (D) The actions in subsection (a)(3) of this section that the Department may take if the state agency or
13 facility fails to comply.

14 (3) If a state agency or state facility fails to comply with a Notice of Violation, the Department may take the
15 following enforcement actions:

16 (A) List the state agency or state facility on the Organic Waste Recovery Noncompliance Inventory
17 described in Section 18997.4 of this chapter.

18 (B) Request that the Department of General Services (DGS) conduct an audit of the state agency or
19 state facility for compliance with Public Contract Code (PCC) Section 12217(a).

20 (C) Notify the Governor.

21 (D) Notify the Legislature.

22 (4) The Department may not extend a compliance deadline in a Notice of Violation if the Department
23 determines that the state agency or state facility has not made substantial efforts to comply with this
24 chapter.

25 (A) For the purposes of this section, "substantial effort" means that the state agency or state facility has
26 taken all practicable steps to comply. Substantial effort does not include failure by the state agency or
27 facility to take the necessary steps to comply, including, but not limited to, not providing adequate staff
28 resources, failing to provide sufficient funding to assure compliance with the Chapter, or failure to adopt
29 required policies.

30
31 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

32
33 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
34 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
35 39730.6, 39730.7 and 39730.8.

36
37 **Section 18996.7. Department Enforcement Action Regarding Local Education Agencies**

38 (a) If the Department finds that a local education agency is violating this chapter, the Department may issue a
39 Notice of Violation requiring compliance within 90 days. If the local education agency fails to comply with the
40 Notice of Violation, the Department may list the local education agency or a non-local entity on the Organic
41 Waste Recovery Noncompliance Inventory pursuant to Section 18997.4.

42
43 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

44
45 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
46 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
47 39730.6, 39730.7 and 39730.8.

48
49 **Section 18996.8. Complaints of Alleged Violations by Jurisdictions and Entities**

50 (a) Any person having information that a jurisdiction or an entity is in violation of a requirement of this chapter
51 may file a written complaint to the Department. The Department may request that complaints include the
52 following:

53 (1) The name and contact information of the person making the complaint.

54 (2) The identity of the alleged violator, including the name of the entity, jurisdiction, state agency, state
55 facility, local education agency, or other non-local entity.

56 (3) The location of the violation.

57 (4) A description of the violation.

58 (5) All known relevant facts including, but not limited, information relating to witnesses and physical
59 evidence.

1 (b) Upon request, the Department shall ensure that the names and contact information of a complainant remain
2 confidential.

3 (c) Upon receipt of a complaint, the Department shall, within 60 days, determine whether the allegations, if true,
4 would constitute a violation of this chapter, and, if so, commence an investigation. The Department shall notify
5 the complainant of the results of the Department's investigation.

6 (d) If the Department receives a complaint about an entity within a jurisdiction's authority, it shall refer the
7 complaint to the jurisdiction for investigation and enforcement action.

8
9 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

10
11 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
12 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
13 39730.6, 39730.7 and 39730.8.

14
15 **Section 18996.9. Department Enforcement Actions Against Entities.**

16 (a) The Department may take enforcement action against organic waste generators, including commercial
17 edible food generators, haulers, and food recovery organizations and services, where a jurisdiction has failed to
18 enforce this chapter or where the entity is a non-local entity that is not a state agency or facility subject to
19 enforcement under Section 18996.6 or a local education agency subject to enforcement under Section
20 18996.7.

21 (b) If an entity has been found in violation, the Department shall:

22 (1) For a first violation:

23 (A) Issue a Notice of Violation (NOV) requiring compliance within 60 days.

24 (B) If the violation continues after the NOV compliance date, the Department shall issue a Notice and
25 Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall include the potential
26 penalties for failing to comply.

27 (C) If the violation continues after the NOTC compliance deadline of 30 days, the Department shall
28 commence action to impose a penalty on the entity no later than 90 days after the issuance of the
29 NOTC.

30 (2) For a second violation and all subsequent violations:

31 (A) Issue a Notice and Order to Correct (NOTC) requiring compliance within 30 days. The NOTC shall
32 include the potential penalties for failing to comply.

33 (B) If the violation continues after the NOTC compliance deadline, the Department shall commence
34 action to impose a penalty on the entity no later than 90 days after its determination of the violation.

35 (c) The Department may grant extensions to the compliance deadlines set forth in subsection (b) if it makes the
36 following findings:

37 (1) The entity is making timely progress toward compliance, and

38 (2) The entity's failure to comply within the deadline is due to:

39 (A) Extenuating circumstances outside its control, including a correction to a long term infrastructure or
40 capacity change which requires a correspondingly longer length of time to achieve compliance.

41 Examples of extenuating circumstances include acts of God such as inclement weather, and
42 earthquakes, and delays in obtaining discretionary permits or other government agency approvals, but
43 where the entity's actions or failure to act was not the cause of the delay

44 (B) Limitations in infrastructure and the jurisdiction in which it is located is under a Corrective Action Plan
45 (CAP) pursuant to Section 18996.2 due to long term infrastructure or capacity deficiencies.

46 (d) The Department shall provide the following information in any Notice of Violation or other enforcement
47 notices:

48 (1) The account name, name(s) of each person, or entity to whom it is directed. Notices must go to the
49 legally responsible party, such as a business owner, service account holder, property owner, etc.

50 (2) The list and description of the violations of this chapter, including the section of this chapter being
51 violated.

52 (3) A compliance date by which the entity is to take specified action(s).

53 (4) The penalty for not complying within the specified compliance date.

54
55 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

56
57 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
58 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
59 39730.6, 39730.7 and 39730.8.

Article 16. Administrative Civil Penalties for Violations of Requirements of This Chapter

Section 18997.1. Scope.

(a) The Department may impose administrative civil penalties authorized by Public Resources Code 42652.5 in accordance with the procedures set forth in this article.

(b) A jurisdiction shall adopt ordinance(s) or enforceable mechanisms to impose penalties that are equivalent or stricter than those amounts in Section 18997.2 of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

Section 18997.2. Penalty Amounts

(a) A jurisdiction shall impose penalties that are equivalent or stricter than those amounts in Table 1 of this section and shall be calculated by determining the type of violations that have occurred, the number of violations that have occurred, and the corresponding penalty level in subsection (b).

Table 1

<u>Requirement</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Property and Business Owner Responsibility Requirement</u> <u>Section 18984.10</u>	<u>Property owner or business owner fails to provide or arrange for organic waste collection services consistent with Article 3 of this chapter for employees, contractors, tenants, and customers, including supplying and allowing access to adequate numbers, size, and location of containers and sufficient signage and container color, as prescribed by this section.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Property and Business Owner Responsibility Requirement</u> <u>Section 18984.10</u>	<u>Property owner or business owner fails to provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting annually, as prescribed by this section.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Property and Business Owner Responsibility Requirement</u> <u>Section 18984.10</u>	<u>Property owner or business owner fails to provide or arrange for access to their properties during all inspections conducted pursuant to Article 14 of this chapter.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Organic Waste Generator Requirement</u> <u>Section 18984.9(a)</u>	<u>Organic waste generator fails to comply with applicable local requirements adopted pursuant to this article for the collection and recovery of organic waste.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>

<p><u>Organic Waste Generator Requirement</u> Section 18984.9(b)(1)</p>	<p><u>Organic waste generator, that is a commercial business, fails to provide containers for the collection of organic waste and no-norganic recyclables in all areas where disposal containers are provided for customers.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Organic Waste Generator Requirement</u> Section 18984.9(b)(2)</p>	<p><u>Organic waste generator, that is a commercial business, fails to prohibit their employees from placing organic waste in a container not designated to receive organic waste.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>
<p><u>Organic Waste Generator Requirement</u> Section 18984.9(b)(3)</p>	<p><u>Organic waste generator, that is a commercial business, fails to periodically inspect waste containers for contamination, and inform employees if containers are contaminated and of the requirements to only use those containers for organic waste.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>
<p><u>Hauler Requirement</u> Section 18988.2</p>	<p><u>A hauler providing residential, commercial or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Hauler Requirement</u> Section 18988.2 (a)(2)</p>	<p><u>A hauler providing residential, commercial, or industrial organic waste collection service fails to obtain applicable approval issued by the jurisdiction pursuant to Section 18988.1.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Hauler Requirement</u> Section 18988.2</p>	<p><u>A hauler fails to keep a record of the applicable documentation of its approval by the jurisdiction, as prescribed by this section.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Hauler Requirement</u> Section 18988.3(b)</p>	<p><u>A generator who is a self-hauler fails to comply with the requirements of subsection 18988.3(b).</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Commercial Edible Food Generator Requirement</u> Section 18991.3</p>	<p><u>Tier One commercial edible food generator fails to arrange to recover edible food and comply with this section commencing Jan. 1, 2022.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>
<p><u>Commercial Edible Food Generator Requirement</u> Section 18991.3</p>	<p><u>Tier Two commercial edible food generator fails to arrange to recover edible food and comply with this section commencing Jan. 1, 2024.</u></p>	<p><u>Level 1</u></p>	<p><u>Level 2</u></p>	<p><u>Level 3</u></p>

<u>Commercial Edible Food Generator Requirement</u> <u>Section 18991.3</u>	<u>Edible food generator intentionally spoils edible food that is capable of being recovered by a food recovery organization or service, as prohibited by this section.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>
<u>Record Keeping Requirements For Commercial Edible food Generator</u> <u>Section 18991.4</u>	<u>Commercial edible food generator fails to keep records, as prescribed by this section.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 2</u>
<u>Record Keeping Requirements For Edible food Recovery Services and Organizations</u> <u>Section 18991.5</u>	<u>A food recovery organization or service that collects or receives 6 tons or more of edible food fails to keep records, as prescribed by this section.</u>	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>

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(b) Consistent with with the requirements prescribed in Government Code Sections 53069, 25132 and 36900 the penalty severity levels are as follows:

(1) For a violation classified as Level 1, the amount of the base penalty may be \$50-\$100per violation, per day.

(2) For a violation classified as Level 2, the amount of the base penalty may be \$100-\$200per violation, per day.

(3) For a violation classified as Level 3, the amount of the base penalty may be \$250-\$500per violation, per day.

(c) For the purposes of subsection (a), revoking, suspending, or denying a permit, registration, license, or other authorization shall be considered stricter than the penalties in this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

Section 18997.3. Department Penalty Amounts

(a) Penalties shall be imposed administratively using the penalty tables contained in subsection (b) and calculated as follows:

(1) Identify the following:

(A) The type of violation(s) that have occurred.

(B) The number of days each violation has occurred, if applicable.

(C) Whether it is a first, second, or subsequent violation.

(2) Determine total base range amount for each type of violation by multiplying the penalty amount range identified in the chart below by the number of days of violation, starting on the day the Notice of Violation is issued.

(3) Use the applicable factors in subsection (d) to determine the penalty amount within the penalty range identified in subsection (a) (2) for each type of violation.

(4) For multiple violations, add the results of subsection (a) (3) for each violation to determine a total penalty amount.

(b) The following Penalty Tables establish the range of the base penalty for each violation based on the severity levels, as set forth in subsection (c).

1 **Base Table 1 is to be used for Jurisdiction Compliance with Collection Services (Article 3), Hauler and**
2 **Generator Requirements (Article 3 and Article 7), and Edible Food Recovery Programs (Article 10).**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18984.1</u>	<u>Jurisdiction fails to implement a three-container organic collection service in the manner prescribed in section 18984.1.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.1(a)(3)</u>	<u>Jurisdiction fails to limit collection to the appropriate containers as prescribed in subsection 18984.1 (a)</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.1(a)(1) and (3)</u>	<u>Jurisdiction fails to transport source separated organic waste to a solid waste facility that processes source separated organic waste, as prescribed in these sections.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.2</u>	<u>Jurisdiction fails to implement a two-container organic collection service in the manner prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Sections 18984.2(a)(3) and 18984.3</u>	<u>Jurisdiction fails to transport waste, to a facility that meets the high diversion requirements, as prescribed in these sections.</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Section 18984.5</u>	<u>Jurisdiction fails to monitor the container provided to generators using a three-container or two-container organic waste collection service to minimize prohibited container contaminants, as required by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.5(b)</u>	<u>Jurisdiction fails to conduct route reviews for prohibited contaminants on randomly selected containers for at least one collection route each collection day in a manner that results in all collection routes being reviewed quarterly, as prescribed in this subsection.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.5(c)</u>	<u>Jurisdiction fails to investigate by physically inspecting containers along the route(s) to determine the sources of contamination and providing written notification, mail education notices, or making direct contact with generators after being informed by a solid waste facility operator of contamination while a hauler was servicing the jurisdiction's generators, as prescribed in this subsection.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

<u>Section 18984.7</u>	<u>Jurisdiction fails to provide collection containers to generators that comply with the container color requirements specific in this article, notwithstanding functional containers prior to the end of the useful life or prior to January 1, 2032, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18984.8</u>	<u>Jurisdiction fails to label collection container, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18984.11</u>	<u>Jurisdiction fails to grant waivers consistent with this section or fails to verify annually de minimis waivers, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18984.13</u>	<u>Jurisdiction fails to execute emergency waivers, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18988.1(a)</u>	<u>Jurisdiction fails to require a hauler providing residential, commercial, or industrial organic waste collection service to generators within its boundaries to meet the requirements and standards of this chapter as a condition of approval of a contract, agreement, or other authorization to collect organic waste), including identifying the facilities they transport organic waste to and complying with the requirements of Article 3 of this chapter, as prescribed in this section.</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Section 18988.1(b)</u>	<u>Jurisdiction fails to adopt an ordinance or similarly enforceable mechanism that requires compliance with Section 18988.3, if it allows generators to self-haul, as prescribed in this section.</u>	<u>Level 6</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Section 18991.1</u>	<u>Jurisdiction fails to implement an edible food recovery program, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

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Base Table 2 is to be used for Jurisdiction Compliance with Organic Waste Recovery Education, and Edible Food Recovery Education Program (Article 4)

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18985.1(a)</u>	<u>Jurisdiction fails to provide to organic waste generators that provide three-container or two-container waste collection information on organic waste generator requirements prescribed in this section prior to February 1, 2022 and then annually thereafter.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>

<u>Section 18985.1(b)</u>	<u>Jurisdiction fails to provide to self-haulers information regarding the requirements of Section 18988.2 of this chapter prior to February 1, 2022 and then annually thereafter.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18985.1(c)</u>	<u>Jurisdiction fails to provide to organic waste generators using unsegregated, single-container collection service the information in subdivisions (1), (2), (3), (4) and information that the organic waste is being processed at a high diversion organic-waste processing facility prior to February 1, 2022 and then annually.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18985.1 (f)</u>	<u>Jurisdiction fails to educate in a manner specified by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18985.2(a)</u>	<u>Jurisdiction fails to develop and maintain a list of food recovery organizations and food recovery services, prior to February 1, 2022 and then annually thereafter, as prescribed in this subsection.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18985.2(b)</u>	<u>Jurisdiction fails to provide commercial businesses that generate edible food information about the jurisdiction's edible food recovery collection program, at least annually, as prescribed in this subsection.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>

1 **Base Table 3 is to be used for Jurisdictions Compliance with CalGreen (Article 8) and Procurement**
2 **(Article 12)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18989.1</u>	<u>Jurisdiction fails to require compliance with CalGreen Building standards, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18993.1</u>	<u>Jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its procurement target, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18993.3</u>	<u>Jurisdiction fails to procure paper products, and printing and writing paper in compliance with this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>

3 **Base Table 4 is to be used for Jurisdictions Compliance Recordkeeping and Reporting (Article 13)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Sections 18984.4, 18988.4, 18993.2, 18995.1 (d), 18995.3(f)</u>	<u>Jurisdiction fails to keep records, as prescribed in any of these sections</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Sections 18984.6, 18984.14, 18985.3, 18991.2, 18993.4</u>	<u>Jurisdiction fails to keep records, as prescribed in any of these sections</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18995.2</u>	<u>Jurisdiction fails to maintain an Implementation Record for the time period prescribed, in a central location, or in a manner that is prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18995.2(c)</u>	<u>Jurisdiction fails to provide access to the Implementation Record to the Department, as prescribed in this section.</u>	<u>Level 6</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Sections 18994.1, 18994.2</u>	<u>Jurisdiction fails to report their Initial Implementation and Compliance Report by February 1, 2022, or fails to report on August 1, 2022 and annually thereafter, the information required in these sections.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Article 13</u>	<u>Jurisdiction fails to submit a compliance report that is complete and accurate, as prescribed in this article.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

- 1 **Base Table 5 is to be used for Jurisdictions Compliance with Requirements to Adopt, Implement,**
- 2 **and Enforce Ordinance(s) as required by and consistent with the Chapter (Section 18981.1.2) and**
- 3 **Locally Adopted Standards and Policies (Article 9) and Enforcement Requirements (Article 14).**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>

<u>Section 18995.1</u>				
<u>Section 18995.3</u>	<u>Jurisdiction fails to investigate complaints, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18995.3(b)</u>	<u>Jurisdiction fails to ensure the names and contact information of a complainant remain confidential, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18995.3(e)</u>	<u>Jurisdiction fails to provide a method for the complainant to be notified of the results of the complaint, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18995.4(a)(1)</u>	<u>Jurisdiction fails to take enforcement, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18995.4(a)(2)</u>	<u>Jurisdiction fails to conduct follow-up inspections, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Sections 18995.4(a)(3) and (4)</u>	<u>Jurisdiction fails to commence actions to impose penalties and issue penalties, as prescribed in these sections.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18995.4(b)</u>	<u>Jurisdiction fails to grant extensions consistent with this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18995.4(c)</u>	<u>Jurisdiction fails to prepare enforcement notices as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Sections 18997.1 and 18997.2</u>	<u>Jurisdiction fails to impose penalties, as prescribed in these sections.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

1 **Base Table 6 is to be used for Organic Waste Recycling Capacity Planning (Article 11)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18992.1(a)</u>	<u>A county in coordination with city or regional agencies fails to estimate organic waste disposed, identify available infrastructure capacity, estimate the amount of new or expanded capacity needed,</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

	<u>and consult with community composting operators pursuant to Section 18992.1.</u>			
<u>Section 18992.2</u>	<u>A county fails in coordination with city or regional agencies to estimate the amount of edible food disposed, identify available capacity, and identify needed additional capacity, as prescribed in this section.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Sections 18992.1(c) and 18992.2 (b)</u>	<u>A jurisdiction fails to submit an on Implementation Schedule pursuant to these sections</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18992.3</u>	<u>A county in coordination with city or regional agencies fails to conduct the planning requirements of Sections 18992.1 and 18992.2 on the prescribed schedule.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

1 **Base Table 7 is to be used for Jurisdiction Approval of Haulers and Self-Haulers (Article 70.1)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18988.2</u>	<u>A hauler providing residential, commercial, or industrial organic waste collection service fails to transport organic waste to a facility, operation, activity, or property that recovers organic waste, as defined in Article 2.</u>	<u>Level 5</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18988.2 (a)(2)</u>	<u>A hauler providing residential, commercial, or industrial organic waste collection service fails to obtain applicable approval issued by the jurisdiction pursuant to Section 18988.1.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18988.2</u>	<u>A hauler fails to keep a record of the applicable documentation of its approval by the jurisdiction, as prescribed by this section.</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>
<u>Section 18988.3(b)</u>	<u>A generator who is a self-hauler fails to comply with the requirements of Section 18988.3(b).</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>

2 **Base Table 8 is to be used for Organic Waste Generators Requirements (Article 3), Enforcement**
3 **Oversight by the Department (Article 15) and Generators of Organic Waste (Article 5)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
Section 18984.9(a)	Organic waste generator fails to comply with applicable local requirements adopted pursuant to this article for the collection and recovery of organic waste.	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
Section 18984.9(b)(1)	Commercial organic-waste generator fails to provide containers for the collection of organic waste and no-norganic recyclables in all areas where disposal containers are provided for customers.	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
Section 18984.9(b)(2)	Organic waste generator, that is a commercial business, fails to prohibit their employees from placing organic waste in a container not designated to receive organic waste.	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
Section 18984.9(b)(3)	Organic waste generator, that is a commercial business, fails to periodically inspect waste containers for contamination and to inform employees if containers are contaminated and of the requirements to only use those containers for organic waste.	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
Section 18996.4	Organic waste generator fails to allow an authorized Department employee or agent, to conduct inspections and investigations examine organic waste activities and records pertaining to the entity to determine compliance with this chapter and, as prescribed in this section.	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>
		<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

1 **Base Table 9 is to be used for Property Owner and Business Owner Responsibilities (Article 3)**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18984.10</u>	<u>Property owner or business owner fails to provide or arrange for organic waste collection services consistent with Article 3 of this chapter for employees, contractors, tenants, and customers, including supplying and allowing access to</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

	<u>adequate numbers, size, and location of containers and sufficient signage and container color, as prescribed by this section.</u>			
<u>Section 18984.10</u>	<u>Property owner or business owner fails to provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and proper sorting annually, as prescribed by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18984.10</u>	<u>Property owner or business owner fails to provide or arrange for access to their properties during all inspections conducted pursuant to Article 14 of this chapter.</u>	<u>Level 5</u>	<u>Level 6</u>	<u>Level 6</u>

1 **Base Table 10 is to be used for Commercial Edible Food Generators**

<u>Section</u>	<u>Description of Violation</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd and subsequent Violation</u>
<u>Section 18991.3</u>	<u>Tier One commercial edible food generator fails to arrange to recover edible food and comply with this section commencing January 1, 2022.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18991.3</u>	<u>Tier Two commercial edible food generator fails to arrange to recover edible food and comply with this section commencing January 1, 2024.</u>	<u>Level 4</u>	<u>Level 4</u>	<u>Level 5</u>
<u>Section 18991.3</u>	<u>Commercial Edible food generator intentionally spoils edible food that is capable of being recovered by a food recovery organization or service as prohibited by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>
<u>Section 18991.4</u>	<u>Commercial edible food generator fails to keep records as prescribed by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 5</u>
<u>Section 18991.5</u>	<u>A food recovery organization or service that collects or receives 6 tons or more of edible food fails to keep records as prescribed by this section.</u>	<u>Level 4</u>	<u>Level 5</u>	<u>Level 6</u>

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3 (c) The penalty severity levels are as follows:

- 4 (1) For a violation classified as Level 1, the amount of the base penalty may be \$50–\$500 per violation.
 5 (2) For a violation classified as Level 2, the amount of the base penalty may be \$250–\$1000 per violation.
 6 (3) For a violation classified as Level 3, the amount of the base penalty may be \$500–2,500 per violation.
 7 (4) For a violation classified as Level 4, the amount of the base penalty may be \$500–2,500 per day.
 8 (5) For a violation classified as Level 5, the amount of the base penalty may be \$1,000–\$5,000 per day.
 9 (6) For a violation classified as Level 6, the amount of the base penalty may be \$5,000–\$10,000 per day.

10 (d) Once the base penalty range has been determined, the following factors shall be used to determine the
 11 amount of the penalty for each violation within that range:

- 12 (1) The nature and circumstances of the violation(s).
 13 (2) Ability for the violator to pay.

- 1 (3) The willfulness of the violator's misconduct.
- 2 (4) Whether the violator took measures to mitigate violations of this chapter.
- 3 (5) Evidence of any financial gain resulting from the violation(s).
- 4 (6) The deterrent effect of the penalty on the violator.
- 5 (7) If there were conditions outside the control of the entity.
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7 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5, and Health and Safety
8 Code Section 39730.6.

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10 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
11 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
12 39730.6, 39730.7 and 39730.8.

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14 **Section 18997.4. Organic Waste Recovery Noncompliance Inventory**

- 15 (a) If the Department documents that a state agency, state facility, or local education agency is in violation of
16 this chapter, the Department shall send a notice to the state agency, state facility, or local education agency
17 stating that the Department intends to place it on the inventory listed on its website if the violation(s) is not
18 corrected within 90 days of receipt of the notice. The notice will be sent by certified mail.
- 19 (b) If the Department determines that violation(s) listed on the notice have not been corrected within 90 days of
20 the issuance of the intent letter, then the Department shall list the state agency, state facility, or local education
21 agency on the inventory.
- 22 (c) If the Department finds that state agency, state facility, or local education agency is no longer in violation of
23 all of the standard(s) listed in the notice of intent letter during or after the 90-day notice of intent period, or for
24 the violations for which it was listed on the inventory, then the Department shall notify the state agency, state
25 facility, or local education agency in writing that it will no longer be placed on the inventory.

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27 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

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29 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
30 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
31 39730.6, 39730.7 and 39730.8.

32
33 **Section 18997.5. CalRecycle Procedure for Imposing Civil Penalties**

- 34 (a) Administrative civil penalties shall be calculated as set forth in Section 18997.3 of this chapter.
- 35 (b) The Department shall serve an accusation on a person against whom civil penalties are being sought, in
36 accordance with the requirements specified in Chapter 4.5 (commencing with Section 11400) of Part 1 of
37 Division 3 of Title 2 of the Government Code and inform the party of the right to a hearing.
- 38 (c) The accusation and all accompanying documents may be served on the respondent by one of the following
39 means:
 - 40 (1) Personal service.
 - 41 (2) Substitute service by using the same service procedures as described in Section 415.20 of the Code
42 of Civil Procedure.
 - 43 (3) Certified Mail or registered mail.
- 44 (d) Upon receipt of the accusation, the respondent shall have 15 days to file a request for hearing, or the
45 respondent will automatically waive its rights to a hearing. Upon receipt of the request for hearing the
46 Department shall schedule a hearing within 30 days. The hearing shall be held before the director, or designee,
47 within 90 days of the scheduling date, unless the parties reach an agreement to settle prior to the hearing date.
- 48 (e) If the party waives the right to a hearing, the Department shall issue an order setting liability for civil
49 penalties in the amount proposed in the accusation unless the Department and the party have entered into a
50 settlement agreement, in which case the Department shall issue an order setting liability for civil penalties in the
51 amount specified in the settlement agreement.
- 52 (f) The director or the director's designee shall issue a written decision within 60 days of the conclusion of the
53 hearing.

54
55 Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

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57 Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103,
58 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5,
59 39730.6, 39730.7 and 39730.8.

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Section 18997.6. CalRecycle Procedure for Hearings and Orders for Civil Liability

(a) A hearing required under this chapter shall be conducted by the director, or the director's designee, in accordance with the informal hearing requirements specified in Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Orders setting civil liability issued under this section shall become effective and final upon issuance thereof, and payment shall be due within 30 days of issuance, unless otherwise ordered by the director. Copies of these orders shall be served by personal service or by certified mail upon the party served with the accusation.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.

Reference: Public Resources Code Sections 40002, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816; and Health and Safety Code Sections 39730.5, 39730.6, 39730.7 and 39730.8.

Amendments to Existing Title 14 & Title 27 Regulations

TITLE 14: NATURAL RESOURCES

DIVISION 7. DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

- Chapter 3 Minimum Standards for Solid Waste Handling and Disposal
- Chapter 3.1. Composting Operations Regulatory Requirements. (Amended)
- Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements
- Chapter 5: Enforcement of Solid Waste Standards and Administration of Solid Waste Facility Permits; Loan Guarantees
- Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans

Chapter 3. Minimum Standards for Solid Waste Handling and Disposal

Article 6.0. Transfer/Processing Operations and Facilities Regulatory Requirements

Section 17402. Definitions.

(a) For the purposes of these articles:

(0.5) "Consolidation Sites" means facilities or operations that receive solid waste for the purpose of storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities. Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities.

(1) "Contact Water" means water that has come in contact with waste and may include leachate.

(1.5) "Contamination" or "Contaminants" has the same meaning as "prohibited container contaminants" as defined in Section 18982(a)(55) of Chapter 12 of this division.

(2) "Covered Container" means a container that is covered to prevent the migration of litter from the container, excessive infiltration of precipitation, odor and leachate production, and to prevent access by animals and people; thereby controlling litter, scavenging, and illegal dumping of prohibited wastes. Covers may include, but are not limited to, tarpaulins or similar materials.

(3) "Direct Transfer Facility" means a transfer facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 150 tons of solid waste and meets all of the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator;

(B) only handles solid waste that has been placed within covered containers or vehicles prior to entering the facility and that is transported in vehicles owned or leased by that same operator;

(C) the facility does not handle, separate, or otherwise process the solid waste;

(D) no waste is stored at the facility for more than any 8-hour period;

(E) solid waste is transferred only once and directly from one covered container or vehicle to another covered container or vehicle so that the waste is never put on the ground or outside the confines of a container or vehicle, before, during, or after transfer. Direct transfer would not include top loading trailers where the solid waste actually leaves the confines of the collection vehicle and is suspended in air before falling into a transfer vehicle;

(F) all of the contents of the original transferring container or vehicle must be emptied during a single transfer; and

(G) any waste that may unintentionally fall outside of the containers or vehicles, is promptly cleaned up and replaced within the container or vehicle to which it was being transferred.

(4) "DTSC" means Department of Toxic Substances Control.

(5) "EA" means enforcement agency as defined in PRC section 40130.

(6) "Emergency Transfer/Processing Operation" means an operation that is established because there has been a proclamation of a state of emergency or local emergency, as provided in Title 14, Division 7, Chapter 3, Article 3, sections 17210.1 (j) and (k) and which meets all of the following requirements:

(A) the operation handles only disaster debris and other wastes, in accordance with section 17210.1(d), during the disaster debris recovery phase; and

(B) the location does not currently have a solid waste facility permit;

1 (C) if the operation accepts, processes, or stores hazardous or household hazardous waste, then these
2 activities must be in compliance with DTSC standards or standards of other appropriate authorities or
3 agencies.

4 (6.5) "Glass Container Processing Operations" means a person or business entity whose primary purpose
5 is to receive source separated or separate or reuse glass container materials, either whole or fragments, for
6 processing that may also contain a residual amount of solid waste and that does not qualify as a recycling
7 center as set forth in section 17402.5(d).

8 (6.6) "Gray container waste" or "Gray container collection stream" means solid waste that is collected in a
9 gray container that is part of a three-container organic waste collection service that prohibits the placement
10 of organic waste in the gray container as specified in Sections 18984.1(a) and (b).

11 (6.7) "Hauler" has the same meaning as defined in Section 18815.2 (a)(32) of this division.

12 (7) "Hazardous Wastes" means any waste which meets the definitions set forth in Title 22, Section 66261.3,
13 et seq. and is required to be managed.

14 (7.5) "Incompatible material" or "incompatibles," means human-made inert material, including, but not
15 limited to, glass, metal, plastic, and also includes organic waste that the receiving end-user, facility,
16 operation, property, or activity is not designed, permitted, or authorized to perform organic waste recovery
17 activities as defined in Section 18983.1(b) of Article 2, Chapter 12.

18 (8) "Large Volume Transfer/Processing Facility" means a facility that receives 100 tons or more of solid
19 waste per operating day for the purpose of storing, handling or processing the waste prior to transferring the
20 waste to another solid waste operation or facility.

21 (A) In determining the tonnage of solid waste received by the facility, the following materials shall not be
22 included: materials received by a recycling center located within the facility, and by beverage container
23 recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the
24 recycling activities are separated from the solid waste handling activities by a defined physical barrier or
25 where the activities are otherwise separated in a manner approved by the EA.

26 (B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using
27 a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an
28 alternate conversion factor if the operator demonstrates that it is more accurate than the required
29 conversion factor.

30 (9) "Limited Volume Transfer Operation" means an operation that receives less than 60 cubic yards, or 15
31 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to
32 another solid waste operation or facility and which does not conduct processing activities, but may conduct
33 limited salvaging activities and volume reduction by the operator.

34 (A) In determining the tonnage of solid waste received by the operation, the following materials shall not
35 be included: materials received by a recycling center located within the operation, and by beverage
36 container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or
37 14520, if the recycling activities are separated from the solid waste handling activities by a defined
38 physical barrier or where the activities are otherwise separated in a manner approved by the EA.

39 (B) If the operation does not weigh the solid waste received, then the tonnage shall be determined by
40 using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve
41 an alternate conversion factor if the operator demonstrates that it is more accurate than the required
42 conversion factor.

43 (10) "Litter" means all solid waste which has been improperly discarded or which has migrated by wind or
44 equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage,
45 and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other
46 natural and synthetic materials, thrown or deposited on the lands and waters of the state.

47 (11) "Medium Volume Transfer/Processing Facility" means a facility that receives equal to or more than 60
48 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 100 tons of solid
49 waste, for the purpose of storing or handling the waste prior to transferring the waste to another solid waste
50 operation or facility; or a facility that receives any amount of solid waste, up to 100 tons per operating day,
51 for the purpose of processing solid waste prior to transferring the waste to another solid waste operation or
52 facility.

53 (A) In determining the tonnage of solid waste received by the facility, the following materials shall not be
54 included: materials received by a recycling center located within the facility, and by beverage container
55 recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the
56 recycling activities are separated from the solid waste handling activities by a defined physical barrier or
57 where the activities are otherwise separated in a manner approved by the EA.

58 (B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using
59 a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an

- 1 alternate conversion factor if the operator demonstrates that it is more accurate than the required
2 conversion factor.
- 3 (11.5) "Mixed Waste Organic Collection Stream" means organic waste collected in a blue container or a
4 gray container that is required by Section 18984.1, 18984.2, or 18984.3 of this division to be transported to
5 a high diversion organic waste processing facility.
- 6 (12) "Nuisance" includes anything which:
7 (A) is injurious to human health or is indecent or offensive to the senses and interferes with the
8 comfortable enjoyment of life or property, and
9 (B) affects at the same time an entire community, neighborhood or any considerable number of persons.
10 The extent of annoyance or damage inflicted upon an individual may be unequal.
- 11 (13) "On-site" means located within the boundary of the operation or facility.
- 12 (14) "Open burning" means the combustion of solid waste without:
13 (A) control of combustion air to maintain adequate temperature for efficient combustion,
14 (B) containment of the combustion reaction in an enclosed device to provide sufficient residence time
15 and mixing for complete combustion, and
16 (C) control of the emission of the combustion products.
- 17 (15) "Operating day" means the hours of operation as set forth in the application, Enforcement Agency
18 Notification and/or permit not exceeding 24 hours.
- 19 (16) "Operating Record" means an easily accessible collection of records of an operation's or facility's
20 activities and compliance with required state minimum standards under Title 14. The Record may include
21 the Facility Plan or Transfer/Processing Report for facilities, and shall contain but is not limited to
22 containing: agency approvals, tonnage and loadchecking records, facility contacts and training history. The
23 record may be reviewed by state and local authorities and shall be available during normal business hours.
24 If records are too voluminous to place in the main operating record or if the integrity of the records could be
25 compromised by on-site storage, such as exposure to weather, they may be maintained at an alternative
26 site, as long as that site is easily accessible to the EA.
- 27 (17) "Operations Area" means:
28 (A) the following areas within the boundary of an operation or facility as described in the permit
29 application or Enforcement Agency Notification:
30 (i) equipment management area, including cleaning, maintenance, and storage areas; and
31 (ii) material and/or solid waste management area, including unloading, handling, transfer,
32 processing, and storage areas.
33 (B) the boundary of the operations area is the same as the permitted boundary but may or may not be
34 the same as the property boundary.
- 35 (18) "Operator" means the owner, or other person who through a lease, franchise agreement or other
36 arrangement with the owner, that is listed in the permit application or Enforcement Agency Notification, is
37 legally responsible for all of the following:
38 (A) complying with regulatory requirements set forth in these Articles;
39 (B) complying with all applicable federal, state and local requirements;
40 (C) the design, construction, and physical operation of the operations area;
41 (D) controlling the activities at an operation or facility as listed on the permit application or Enforcement
42 Agency Notification.
- 43 (18.4) "Organic Waste Recovery Activities," or "recovery" has the same meaning as defined in Section
44 18982(a)(449) of Chapter 12 of this division.
- 45 (18.5) "Organic Waste" has the same meaning as in Section 18982(a)(46) of Chapter 12 of this division.
- 46 (18.6) "Source Separated Organic waste" or "Source Separated Organic Waste Collection Stream" means
47 organic waste that is collected in a green container as specified in Sections 18984.1(a)(1) and
48 18984.2(a)(1) or a yellow container or other container as specified in Section 18984.1(a)(6) of this division.
- 49 (19) "Owner" means the person or persons who own, in whole or in part, an operation or facility, and/or the
50 land on which it is located.
- 51 (20) "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of
52 solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of
53 vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts,
54 sorting lines or volume reduction equipment. Recycling Center is more specifically defined in section
55 17402.5 (d) of this Article.
- 56 (21) "Putrescible Wastes" include wastes that are capable of being decomposed by micro-organisms with
57 sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and

1 include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on
2 a case-by-case basis whether or not a site is handling putrescible wastes.

3 (22) "Regulated Hazardous Waste" means a hazardous waste, as defined in section 66260.10 of Division
4 4.5 of Title 22.

5 (23) "RWQCB" means the Regional Water Quality Control Board.

6 (23.5) "Remnant organic material" means the organic material that is collected in a gray container that is
7 part of the gray container collection stream.

8 (24) "Salvaging" means the controlled separation of solid waste material which do not require further
9 processing, for reuse or recycling prior to transfer activities.

10 (25) "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste materials.

11 (26) "Sealed Container Transfer Operation" means a transfer operation that meets the following
12 requirements:

13 (A) handles only solid waste that has previously been placed within containers that have either a
14 latched, hard top or other impermeable cover which is closed tightly enough to:

15 (1) prevent liquid from infiltrating into or leaking out of the container; and

16 (2) prevent the propagation and migration of vectors; and,

17 (i) the solid waste remains within the unopened containers at all times while on-site; and,

18 (ii) the containers are not stored on-site for more than 96 hours.

19 Sealed container transfer operations do not include operations excluded by Public Resources
20 Code section 40200(b)(3).

21 (27) "Special Waste" includes but is not limited to:

22 (A) waste requiring special collection, treatment, handling, storage, or transfer techniques as defined in
23 Title 22, section 66260.10.

24 (B) waste tires and appliances requiring CFC removal.

25 (28) "Spotter" means an employee who conducts activities that include, but are not limited to, traffic control,
26 hazardous waste recognition and removal for proper handling, storage and transport or disposal, and
27 protection of the public from health and/or safety hazards.

28 (29) "Store" means to stockpile or accumulate for later use.

29 (30) "Transfer/Processing Facility" or "Facility" includes:

30 (A) those activities governed by the Registration Permit tier or Full Solid Waste Facility Permit
31 requirements (as specified in sections 17403.6 and 17403.7); and,

32 (B) which:

33 1. receive, handle, separate, convert or otherwise process materials in solid waste; and/or

34 2. transfer solid waste directly from one container to another or from one vehicle to another for
35 transport; and/or

36 3. store solid waste;

37 (C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1,
38 Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste facility does not constitute
39 solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities
40 defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from
41 the solid waste activities, or where the recycling and solid waste activities are considered by the EA as
42 separate operations.

43 (D) "Transfer/Processing Facilities" do not include activities specifically defined in section 17402.5(c) of
44 this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with
45 section 17850).

46 (31) "Transfer/Processing Operation" or "Operation" includes:

47 (A) those activities governed by the EA Notification tier requirements; and,

48 (B) which:

49 1. receive, handle, separate, convert or otherwise process materials in solid waste; and/or

50 2. transfer solid waste directly from one container to another or from one vehicle to another for
51 transport; and/or

52 3. store solid waste;

53 (C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1,
54 Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste operation does not constitute
55 solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities
56 defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from
57 the solid waste activities, or where the recycling and solid waste activities are considered by the EA as
58 separate operations.

(D) "Transfer/Processing Operations" do not include activities specifically defined in section 17402.5(c) of this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with section 17850).

(32) "Volume Reduction" means techniques such as: compaction, shredding, and baling.

(33) "Waste Hauling Yard Operation" is an operation that meets the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator, who receives, stores, or transfers waste as an activity incidental to the conduct of a refuse collection and disposal business, and;

(B) handles only solid waste that has been placed within a covered container before the container arrives at the waste hauling yard, and;

(C) no more than 90 cubic yards of waste is stored on-site in covered containers at any time, and;

(D) the solid waste remains within the original covered containers while on-site at any times, and;

(E) the covered containers are not stored on-site for more than any 72 hour period;

(F) if the EA has information that the operation does not meet these requirements, the burden of proof shall be on the owner or operator to demonstrate that the requirements are being met.

Note:

Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7 and 39730.8 Health and Safety Code.

Section 17402.5. Definitions and Related Provisions Regarding Activities That Are Not Subject to the Transfer/Processing Regulatory Requirements.

(a) This section sets forth definitions and related provisions regarding activities that are not subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(1) Activities that are not in compliance with the applicable definitions and related provisions of this section shall be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(2) The definitions and related provisions of this section are for use only to determine the applicability of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(b) The following general definitions may apply to one or more of the activities that are more specifically defined in subdivisions (c) and (d) of this section.

(1) "Residual" means the solid waste destined for disposal, further transfer/processing as defined in section 17402(a)(30) or (31) of this Article, or transformation which remains after processing has taken place and is calculated in percent as the weight of residual divided by the total incoming weight of materials.

(2) "Reuse" means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded.

(3) "Separated for Reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been "source separated".

(4) "Source Separated" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(c) Activities included in one of the following definitions are not subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter, provided that these activities do not include the acceptance of solid waste which has not been separated for reuse. If an activity defined in this section is accepting solid waste which has not been separated for reuse, it must meet the requirements of subdivision (d) of this section or else it shall be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(1) "Auto Dismantler" means a person or business entity engaged in the business of buying, selling, or dealing in vehicles including nonrepairable vehicles, for the purpose of dismantling the vehicles, buying or selling the integral parts and component materials thereof, in whole or in part, or dealing in used motor vehicle parts pursuant to California Vehicle Code, section 220.

(2) "Auto Shredder" or "Metal Shredder" means a person or business entity that accepts scrap metal, typically automobiles and white goods, and mechanically rends that scrap metal into fist sized bits and pieces and separates the ferrous metals, nonferrous metals and other materials for the purpose of recycling.

- 1 (3) "Buy Back Center" means a person or business entity engaging in those activities defined in Public
2 Resources Code Sections 14518, or 14520.
- 3 (4) "Drop-off Center" means a person or business entity engaging in those activities defined in Public
4 Resources Code Section 14511.7.
- 5 (5) "Manufacturer" means a person or business entity that uses new or separated for reuse materials as a
6 raw material in making a finished product that is distinct from those raw materials.
- 7 (6) "Regional Produce ~~Organic~~ Distribution Center" means a distribution center that receives unsold and
8 packaged food produce (sometimes referred to as "pre-consumer") back from stores to which it was
9 originally sent the produce, and which remains the property of the distribution center or stores, for the
10 purpose of data collection, depackaging, and transferring this produce and other food to a compost
11 compostable material handling operation or facility, in-vessel digestion operation or facility, or to a another
12 beneficial use. A regional produce distribution center would not include a site where produce is processed.
- 13 (7) "Rendering activities", means an activity that is a licensed animal food manufacturing activity, or a
14 rendering activity which is authorized by the California Department of Food and Agriculture pursuant to
15 Section 19300 of the Food and Agricultural Code, and in which no solid waste feedstock bypasses the
16 manufacturing or rendering process. "Rendering Plant" means a person or business entity where dead
17 animals or any part or portion thereof, vegetable oils, or packing house refuse, are processed for the
18 purpose of obtaining the hide, skin, grease residue, or any other byproduct whatsoever.
- 19 (8) "Reuse Salvage Operation" means a person or business entity which sterilizes, dismantles, rebuilds, or
20 renovates, nonputrescible separated-for-reuse materials, and that recovers for recycling or reuse distinct
21 material types that have not been commingled with other materials before they enter the waste stream.
22 Examples of this activity include, but are not limited to, wire choppers, and dismantlers of furniture and
23 mattresses, and "brown goods" such as computer equipment, VCRs, and televisions.
- 24 (9) "Scrap Metal Recyclers and Dealers" means a person or business entity including all employees of the
25 person or business entity, (except automotive recyclers and auto shredders as defined in this section),
26 whose primary business is the purchasing; processing by shredding, shearing, baling, and torching; trading,
27 bartering or otherwise receiving secondhand or castoff metal material which includes ferrous metals,
28 nonferrous metals, aluminum scrap, auto bodies, major appliances and other metals, including containers
29 that are regulated pursuant to Public Resources Code Section 14511.7, 14518 or 14520.
- 30 (10) "Wire Chopper" means a person or business entity which uses source separated metal components or
31 wire for the purpose of recycling or reuse.
- 32 (11) "Wood, Paper or Wood Product Manufacturer" means a person or business entity that uses separated
33 for reuse paper or woody materials in order to produce a finished product able to be used as is; or to
34 manufacture another product such as, boxes or boards, without further processing.
- 35 (d) A "Recycling Center" means a person or business entity that meets the requirements of this subdivision. A
36 recycling center shall not be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.
- 37 (1) A recycling center shall only receive material that has been separated for reuse prior to receipt.
- 38 (2) The residual amount of solid waste in the separated for reuse material shall be less than 10% of the
39 amount of separated for reuse material received by weight.
- 40 (A) The residual amount is calculated by measuring the outgoing tonnage after separated for reuse
41 materials have been removed.
- 42 (B) The residual amount is calculated on a monthly basis based on the number of operating days.
- 43 (3) The amount of putrescible wastes in the separated for reuse material shall be less than 1% of the
44 amount of separated for reuse material received by weight, and the putrescible wastes in the separated for
45 reuse material shall not cause a nuisance, as determined by the EA.
- 46 (A) The amount of putrescible wastes is calculated in percent as the weight of putrescible wastes
47 divided by the total incoming weight of separated for reuse material.
- 48 (B) The amount of putrescible wastes is calculated on a monthly basis based on the number of
49 operating days.
- 50 (4) The only separation that may occur at the recycling center is the sorting of materials that have been
51 separated for reuse prior to receipt.
- 52 (5) The recycling center may include an adjustment in the calculation to include the weight of water in the
53 residual, when the use of water is essential to the sorting or processing of the material, provided that such
54 an adjustment is also made in the weight of materials received for processing.
- 55 (6) The following materials shall not be included in calculating residual as set forth in subdivision (d)(2) of
56 this section, if the recycling activities are separated from the material handling activities noted below by a
57 defined physical barrier or where the activities are otherwise separated in a manner that the EA determines
58 will keep the materials from being commingled:
- 59 (A) materials received at an on-site Buy Back Center;

- 1 (B) materials received at an on-site Drop-off Center;
- 2 (C) cannery waste;
- 3 (D) construction and demolition materials;
- 4 (E) nonhazardous contaminated soil;
- 5 (F) grease-trap pumpings;
- 6 (G) nonhazardous asbestos;
- 7 (H) nonhazardous ash;
- 8 (I) compost and compost feedstock;
- 9 (J) sewage sludge;
- 10 (K) tires.

11 (7) If the EA has information that material that is being received is not separated for reuse or source
12 separated, that the residual is 10% or more of the total per month, or that the amount of putrescible wastes
13 is 1% or more of the total per month, the burden of proof shall be on the owner or operator to demonstrate
14 otherwise.

15 (A) A business that accepts loads of material that are not separated for reuse or source separated does
16 not qualify as a recycling center.

17 (B) If the EA has reason to believe that a business is accepting material that is not separated for reuse
18 or source separated due to averaging or combining of those loads with other loads of separated for
19 reuse material, the burden of proof will be on the business to demonstrate that it is not accepting loads
20 of mixed solid waste.

21 (C) If the EA has reason to believe that a business is accepting material that is not separated for reuse
22 or source separated due to the separation of portions of the material at consecutive sites, each of which
23 removes less than 10% residual, the burden of proof will be on the business to demonstrate that it is not
24 accepting loads of mixed solid waste.

25 (D) If the EA determines that a business has exhibited a pattern and practice of failing to comply with the
26 provisions of this subsection, the EA may issue a Notice and Order requiring the business to obtain a
27 Registration Permit or Full Permit or comply with the Enforcement Agency Notification requirements as
28 made applicable in sections 17403 through 17403.7 of this Article.

29 (E) At the time that the EA requires a recycling center to provide evidence that it is in compliance with
30 this subdivision, the EA shall provide the recycling center with a written description of the information
31 that has caused the EA to believe that the recycling center is not in compliance. Nothing in this
32 requirement is intended to require the EA to identify the name or other identifying information regarding
33 any individual(s) who have complained about the recycling center.

34 (F) Nothing in this section precludes the enforcement agency or the board from the following: inspecting
35 a business to verify that it is conducted in a manner that meets the provisions of this subsection; or, from
36 taking any appropriate enforcement action, including the use of a Notice and Order as provided in
37 Section 18304.

38 (8) Operations which do not meet the 10% residual percentage in subdivision (d)(2) of this section but which
39 qualify as a Limited Volume Transfer Operation, shall comply with the requirements of section 17403.3
40 within one month of March 5, 1999.

41 (9) recycling center operators may voluntarily report their residual percentage to the EA and the CalRecycle
42 using form CIWMB 607 (located in Appendix A).

43 (10) If the EA determines that a person or business entity purporting to operate a recycling center is not in
44 compliance with this subsection and issues an enforcement order, that person or business entity may
45 appeal that order in accordance with Public Resources Code section 44307.

46 (e) If a Chipping and Grinding Operation or Facility, as defined in section 17852(a)(10) of this Division, handles
47 material that fails to meet the definition of green material due to contamination as set forth in section
48 17852(a)(21) of this Division, the operation or facility shall not be considered to be a recycling center as set
49 forth in subsections (c) or (d) of section 17402.5

50 Note:

51 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

52 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
53 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
54 and 39730.8 Health and Safety Code.

55 **Section 17403.0. Regulatory Tiers Requirements for Transfer/Processing Operations and Facilities.**

56 Sections 17403.1 through 17403.7 set forth the regulatory tier requirements (Title 14, Division 7, Chapter 5.0,
57 Article 3.0, commencing with section 18100 or Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3,
58
59

1 Articles 2, 3 and 3.1 of the California Code of Regulations (commencing with section 21570) that apply to
2 specified types of transfer/processing operations and facilities. These requirements are summarized in Table 1.
3

4 Note:
5 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
6 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
7 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
8 and 39730.8 Health and Safety Code.
9

10 **Table 1. Transfer/Processing Operations and Facilities Placement into the Regulatory Tiers**

Not Subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35	Excluded Tier	Enforcement Agency Notification Tier	Registration Permit Tier	Full Solid Waste Facility Permit
Auto Dismantler Section 17402.5(c)(1)	Locations where <15 cubic yards of combined container volume is provided to serve as multi-residence receptacles for residential refuse at the place of generation. Section 17403.1(a)(1)	Emergency Transfer/Processing Operations Section 17403.5	Medium Volume Transfer/Processing Facility Section 17403.6	Large Volume Transfer/Processing Facility Section 17403.7
Auto Shredder Operations Section 17402.5(c)(2)	Locations where <15 cubic yards of combined container volume is handled for recycling. Section 17403.1(a)(2)	Secondary Material Processing Operations Section 17403.3.2	Direct Transfer Facility Section 17403.4	Secondary Material Processing Facility Section 17403.3.3
Buy Back Centers Section 17402.5(c)(3)	Storage receptacle at the place of generation for waste from multi-residential buildings or for commercial solid wastes. Section 17403.1(a)(3)	Sealed Container Transfer Operations Section 17403.2		
Drop-off Centers Section 17402.5(c)(4)	Containers used to store construction or demolition wastes at the place of generation. Section 17403(a)(4)	Limited Volume Transfer Operations Section 17403.3		
Manufacturers Section 17402.5(c)(5)	Containers used to store salvaged materials. Section 17403.1(a)(5)			
Recycling Centers Section 17402.5(d)	Waste Hauling Yard Operations.			
<u>Regional Organic Distribution Centers Section 17402.5(c)(6)</u>				
<u>Rendering Plants Activities Section 17402.5(c)(6)</u>				
Reuse Salvage Operations (includes furniture and mattress dismantlers)				

and
demanufacturers) Section
17402.5(c)(~~78~~) 17403.1(a)(6)
Section
Storage of Other
Wastes. Section
17403(1)(a)(7)

Scrap Metal
Recyclers and
Dealers Section
17402.5(c)(~~89~~)
Wire Choppers
Section
17402.5(c)(~~910~~)
Wood, Paper, or
Wood Product
Manufacturer
Section
17402.5(c)(~~1011~~)

Note: There are no operations or facilities placed within the Standardized tier.

Article 6.2 Operating Standards.

Section 17409.5. Loadchecking—Prohibited Wastes.

(a) The operator of an attended operation or facility shall implement a loadchecking program to prevent the acceptance of waste which is prohibited by this Article. This program must include at a minimum:

- (1) the number of random loadchecks to be performed;
- (2) a location for the storage of prohibited wastes removed during the loadchecking process that is separately secured or isolated;
- (3) records of loadchecks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. A copy of the loadchecking program and copies of the loadchecking records for the last year shall be maintained in the operating record and be available for review by the appropriate regulatory agencies.

Note:

Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7 and 39730.8 Health and Safety Code.

Section 17409.5.1. Organic Waste Recovery Efficiency.

(a) This section applies to transfer and processing facilities and operations that conduct processing activities.

(b) For purposes of compliance with the reporting requirements in Section 18815.5 of this division, and demonstrating that the facility is a "high diversion organic waste processing facility" as defined in Section 18982

(a)(33) of this division that meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent on and after January 1, 2022 and 75 percent on and after January 1, 2025 as determined in Section 18815.5(e), the operator shall conduct the measurements described in this section.

(c) The operator shall:

(1) Determine the quarterly sum of outgoing weights of organic waste recovered from the mixed waste organic collection stream by adding together all weights determined pursuant to Section 17409.5.2(b)(6) for each operating day for the quarterly period.

(2) Determine the quarterly sum of outgoing weights of organic waste removed from the mixed waste organic collection stream that is sent to disposal as measured pursuant to Section 17409.5.3(b)(5) for each operating day for the quarterly period.

(3) Report the quarterly sums of Subdivision (c)(1) and (c)(2) to the Department pursuant to 18815.5 of this division

(d) The operator shall additionally:

1 (1) Determine the quarterly sum of outgoing weights of organic waste recovered from the source separated
2 organic waste collection stream by adding together all weights determined pursuant to Section
3 17409.5.4(b)(6) for each operating day for the quarterly period.

4 (2) Determine the quarterly sum of outgoing weights of organic waste removed from the source separated
5 organic waste collection stream that is sent for disposal as measured pursuant to Section 17409.5.5(b)(5)
6 for each operating day for the quarterly period.

7 (3) Report the quarterly sums of Subdivision (d)(1) and (d)(2) to the Department pursuant to 18815.5 of this
8 division

9 (e) The operator shall maintain records demonstrating compliance with this section in a manner approved by
10 the EA and as described in Section 17414.2(a) of this chapter.

11 Note:

12 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

13 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
14 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
15 and 39730.8 Health and Safety Code.

16
17
18 **Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream.**

19 (a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream shall,
20 each operating day, measure the amount by weight of organic waste separated from the mixed waste organic
21 collection stream after processing for end-use, recovery or further processing.

22 (b) The operator shall comply with subdivision (a) by using the following protocol:

23 (1) Take at least a one (1) cubic yard sample from each of the organic waste type separated after
24 processing at the operation or facility on that operating day prior to sending to a destination for end-use,
25 recovery, or further processing. Each sample shall be:

26 (A) Representative of a typical operating day;

27 (B) A random, composite sample taken either from various times during the operating day or from
28 various locations within each pile of each of the organic waste types separated after processing.

29 (2) Determine the weight of each sample from each organic waste type.

30 (3) For each sample, remove any incompatible material and determine the remaining weight of organic
31 waste in that sample.

32 (4) Then determine a ratio for each type of organic waste in the mixed waste organic collection stream by
33 dividing the total from subdivision (b)(3) by the total from subdivision (b)(2).

34 (5) Multiply the ratio determined pursuant to subdivision (b)(4) for each type of organic waste by the total
35 weight of all of the same type of organic waste separated after processing and destined for end-use,
36 recovery or further processing

37 (6) Determine the total weight of organic waste separated from the mixed waste organic collection stream
38 for recovery by adding the sum of all the weights calculated pursuant to subdivision (b)(5).

39 (c) The operator shall conduct a measurement in the presence of the EA when requested.

40 (d) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
41 require the operator to increase the frequency of measurements and/or revise the measurement protocol to
42 improve accuracy.

43 (e) If the operator sends any material to a POTW that the POTW is not authorized to receive pursuant to
44 Section 17896.6(a)(1)(C) or (D), that material shall be deemed to constitute landfill disposal pursuant to Section
45 18983.1(a)(3).

46
47 Note:

48 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

49 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
50 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
51 and 39730.8 Health and Safety Code.

52
53 **Section 17409.5.3. Measuring Organic Waste in Residuals Removed from Mixed Waste Organic**
54 **Collection Stream.**

55 (a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream shall,
56 each operating day, measure the amount by weight of organic waste present in the residuals removed from the
57 mixed waste organic collection stream after processing that is sent to disposal.

58 (b) The operator shall comply with subdivision (a) by using the following protocol:

- 1 (1) Take at least one (1) cubic yard sample of the residuals removed from mixed waste organic collection
2 stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be:
3 (A) Representative of a typical operating day
4 (B) A random, composite sample taken either from various times during the operating day or from
5 various locations within the pile after processing.
6 (2) Determine the total weight of the sample;
7 (3) Remove any incompatible material and determine the remaining weight of the organic waste in the
8 sample;
9 (4) Then determine the ratio of organic waste present in the residuals removed from the mixed waste
10 organic collection stream by dividing the total from subdivision (b)(3) by the total from subdivision (b)(2).
11 (5) Determine the total weight of organic waste removed from the mixed organic collection stream that is
12 sent for disposal by multiplying the ratio determined pursuant to subdivision (b)(4) by the total weight of the
13 residuals removed from the mixed waste organic collection stream after processing.
14 (c) The operator shall conduct a measurement in the presence of the EA when requested.
15 (d) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
16 require the operator to increase the frequency of measurements and/or revise the measurement protocol to
17 improve accuracy.
18 (e) The operator shall maintain records of measurements and the training of personnel in evaluating the amount
19 of organic waste in the residual material removed from mixed waste organic collection stream.

20
21 Note:

22 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
23 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
24 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
25 and 39730.8 Health and Safety Code.

26
27 **Section 17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste**
28 **Collection Stream.**

- 29 (a) The operator of an attended operation or facility that accepts source separated organic waste shall, each
30 operating day, measure the amount by weight of organic waste separated from the source separated organic
31 waste collection stream after processing for end-use, recovery or further processing.
32 (b) The operator shall comply with subdivision (a) by using the following protocol:
33 (1) Take at least a one (1) cubic yard sample from each of the organic waste type separated after
34 processing at the operation or facility on that operating day prior to sending to a destination for end-use,
35 recovery, or further processing. Each sample shall be:
36 (A) Representative of a typical operating day;
37 (B) A random, composite sample taken either from various times during the operating day or from
38 various locations within each pile of each of the organic waste types separated after processing.
39 (2) Determine the weight of each sample from each organic waste type.
40 (3) For each sample, remove any incompatible material and determine the remaining weight of organic
41 waste in that sample.
42 (4) Then determine a ratio for each type of organic waste in the source separated organic waste collection
43 stream by dividing the total from subdivision (b)(3) by the total from subdivision (b)(2).
44 (5) Multiply the ratio determined pursuant to subdivision (b)(4) for each type of organic waste by the total
45 weight of all of the same type of organic waste separated after processing and destined for end-use,
46 recovery or further processing.
47 (6) Determine the total weight of organic waste separated from the source separated organic waste
48 collection stream for recovery for the operating day by adding the sum of all the weights calculated pursuant
49 to subdivision (b)(5).
50 (c) The operator shall conduct a measurement in the presence of the EA when requested.
51 (d) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
52 require the operator to increase the frequency of measurements and/or revise the measurement protocol to
53 improve accuracy.

54
55 Note:

56 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

1 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
2 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
3 and 39730.8 Health and Safety Code.

4
5 **Section 17409.5.5. Measuring Organic Waste in Residuals Removed from Source Separated Organic**
6 **Waste Collection Stream.**

7 (a) The operator of an attended operation or facility that accepts a source separated organic waste shall, each
8 operating day, measure the amount of organic waste by weight present in the residuals removed from the
9 source separated organic waste collection stream after processing sent to disposal.

10 (b) The operator shall comply with subdivision (a) by using the following protocol:

11 (1) Take at least a one (1) cubic yard sample of the residuals removed from source separated organic
12 waste collection stream at the operation or facility on that operating day prior to sending to disposal. Each
13 sample shall be:

14 (A) Representative of a typical operating day

15 (B) A random, composite sample taken either from various times during the operating day or from
16 various locations within the pile after processing.

17 (2) Determine the total weight of the sample;

18 (3) Remove any incompatible material and determine the remaining weight of the organic waste in the
19 sample;

20 (4) Then determine the ratio of organic waste present in the residuals removed from the source separated
21 waste organic collection stream by dividing the total from subdivision (b)(3) by the total from subdivision
22 (b)(2).

23 (5) Determine the total weight of organic waste removed from the source separated organic waste collection
24 stream that is sent for disposal by multiplying the ratio determined pursuant to subdivision (b)(4) by the total
25 weight of the residuals removed from the source separated organic waste collection stream after
26 processing.

27 (c) The operator shall conduct a measurement in the presence of the EA when requested.

28 (d) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
29 require the operator to increase the frequency of measurements and/or revise the measurement protocol to
30 improve accuracy.

31 Note:

32 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

33 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
34 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
35 and 39730.8 Health and Safety Code.

36
37
38 **Section 17409.5.6. Source Separated Organic Waste Handling.**

39 (a) Source separated organic waste processing shall be kept separate from other solid waste streams.

40 (1) Remnant organic material separated from the gray container collection stream can be combined with
41 organic material removed from the source separated organic waste collection stream once the material from
42 the separated organic waste collection stream has gone through the measurement protocol described in
43 Section 17409.5.4.

44 (b) Source separated organic waste and organic waste removed from a mixed waste organic collection service
45 for recovery shall be:

46 (1) stored away from other activity areas in specified, clearly identifiable areas as described in the Facility
47 Plan or Transfer/Processing Report; and,

48 (2) Removed from the site consistent with Section 17410.1 and either:

49 (A) transported only to another solid waste facility or operation for additional processing, composting, in-
50 vessel digestion, or other recovery as specified in Section 18983.1 of this division; or,

51 (B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction.

52 Note:

53 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

54 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
55 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
56 and 39730.8 Health and Safety Code.

57 **Section 17409.5.7. Loadchecking – Contamination in Source Separated Organic Waste.**
58
59

1 (a) The operator of an attended operation or facility that accepts source separated organics waste shall perform
2 loadchecking to identify the amount of visible contamination in source separated organic waste according to the
3 following schedule:

4 (1) One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste received
5 per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2)
6 loadchecks shall be conducted for that operating day.

7 (2) At least one random loadcheck per day for each source sector as defined in Section 18815.2(a)(51).

8 (3) The operator shall inform the jurisdiction of origin or jurisdiction's designee of received loads with visible
9 contamination

10 (b) The operator shall maintain the following loadchecking records under this section:

11 (1) Records of the number of rejected or redirected loads and reasons for rejection or redirection.

12 (2) Records of received loads with visible contamination.

13 (3) Records of notices provided to jurisdiction and/or jurisdiction's designee pursuant to subdivision (a)(3).

14 (4) Records of loadchecks and the training of personnel in evaluating the amount of contamination in source
15 separated organic waste. These records shall be maintained for three (3) years in the operating record and
16 be available for review by the appropriate jurisdiction of origin, jurisdiction's designee, and other duly
17 authorized regulatory agencies.

18 {
19 (c) The EA may approve an alternative frequency for loadchecking if:

20 (1) The facility receives waste from jurisdictions that are monitoring containers provided to generators using
21 the container contamination minimization described in Section 18984.5, or

22 (2) The EA determines that the incoming material from the source separated organic waste collection
23 stream does not contain any remnant organic material.

24 (d) The operator shall conduct a loadcheck in the presence of the EA when requested.

25
26 Note:

27 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

28 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
29 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
30 and 39730.8 Health and Safety Code.

31
32 **Section 17409.5.8. Incompatible Materials Limit in Recovered Organic Waste.**

33 (a) On and after January 1, 2022, a transfer/processing facility or operation shall send organic waste
34 recovered after processing from the source separated organic waste stream and from the mixed waste organic
35 collection stream with no more than 10 percent of incompatible material by weight to the destination it is being
36 sent per operating day.

37 (b) The operator shall measure compliance with subdivision (a) by using the following protocol:

38 (1) Use the same samples taken to comply with Sections 17409.5.2 and 17409.5.4 and the same total
39 weight of each of those samples.

40 (2) For each sample, remove any incompatible material and determine the weight of the incompatibles in
41 that sample.

42 (3) Then determine a ratio of the incompatible material for each type of organic waste in the mixed waste
43 organic collection stream and the source separated organic waste collection waste stream by dividing the
44 total from subdivision (b)(2) by the total from subdivision (b)(1).

45 (4) Multiply the ratio determined pursuant to subdivision (b)(3) for each type of organic waste by the total
46 weight of all of the same type of organic waste separated after processing and destined for end-use,
47 recovery or further processing.

48 (5) Determine the total weight of incompatible materials separated from the mixed waste organic collection
49 stream and from the source separated organic waste stream by adding the sum of all the weights calculated
50 pursuant to subdivision (b)(4).

51 (6) Determine the ratio of incompatible materials by taking the total weight of incompatible materials
52 determined pursuant to subdivision (b)(5) and dividing by the sum of the outgoing weights of the materials
53 recovered from the mixed waste organic collection stream and from the source separated organic waste
54 stream.

55 (7) Determine the percentage of incompatible materials by multiplying the ratio determined pursuant to
56 subdivision (b)(6) by 100.

57 (c) The recovered organic waste stream shall not be subject to Section 17409.5.8(a) if the recovered organic
58 waste is sent to one of the following types of facilities:

59 (1) A transfer/processing facility or operation that complies with Section 17409.5.8(a); or,

- 1 (2) A compostable material handling facility or operation that pursuant to Section 17867(a)(16)
2 demonstrates that no more than 10 percent of the residuals sent to disposal are organic waste.
3 (3) An in-vessel digestion facility or operation that pursuant to Section 17896.44.1 demonstrates that no
4 more than 10 percent of the residuals sent to disposal are organic waste,
5 (4) An activity that meets the definition of a recycling center as described in Section 17402.5(d).
6 (d) The operator shall conduct a measurement in the presence of the EA when requested.
7 (e) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
8 require the operator to increase the frequency of measurements and/or revise the measurement protocol to
9 improve accuracy.

10
11 Note:

12 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

13 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
14 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
15 and 39730.8 Health and Safety Code.

16
17 **Section 17409.5.9. Alternatives to Measurement Protocols.**

18
19 (a) The EA may approve, with concurrence by the Department, alternative measurement protocols to the
20 requirements of Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, 17409.5.8, and 17409.11 of
21 this division as long as they will still ensure that that the measurements will be as accurate.

22
23 Note:

24 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

25 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
26 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
27 and 39730.8 Health and Safety Code.

28
29 **Section 17409.5.10. Solid Waste Handling at Consolidation Sites.**

30
31 (a) Consolidation sites are not subject to the requirements of Sections 17409.5.1 through 17409.5.8 of this
32 division.

33 (b) Consolidation sites are not subject to the recordkeeping and reporting requirements of Section 17414.2 of
34 this division.

35 (c) Consolidation sites shall keep source separated organic waste streams separate from other solid waste
36 streams.

37 (d) Materials shall be transported only to transfer/processing facilities or operations that comply with Section
38 17409.5.1.

39
40 Note:

41 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

42 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
43 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
44 and 39730.8 Health and Safety Code.

45
46 **Section 17409.5.11. Remnant Organic Material in the Gray Container Collection Stream.**

47
48 (a) Remnant organic material separated from the gray container collection stream is not subject to the
49 requirements of Sections 17409.5.1 and 17409.5.8 of this division.

50 (1) Remnant organic material removed from the gray container collection stream can be combined with
51 organic material removed from the source separated organic waste collection stream once the material from
52 the source separated organic waste collection stream has gone through the measurement protocol
53 described in Section 17409.5.4.

54 (b) The operator of an attended operation or facility that accepts a gray container collection stream shall
55 perform loadchecking to identify the amount of visible remnant organic material according to the following
56 schedule:

57 (1) One (1) loadcheck shall be conducted for every 500 tons of gray container waste received per operating
58 day. If the operator receives less than 500 tons for the operating day, a minimum of two (2) loadchecks shall
59 be conducted for that operating day.

- 1 (2) At least one random loadcheck per day for each source sector as defined in Section 18815.2(a)(51).
2 (3)The operator shall inform jurisdiction or jurisdiction designee of origin of received loads with visible
3 remnant organic material.
4 (4) The EA may approve an alternative frequency for loadchecking if:
5 (A) Jurisdictions are monitoring containers provided to generators using the container contamination
6 minimization described in Section 18984.5, or
7 (B) The EA determines that the incoming material from the gray container collection stream does not
8 contain any remnant organic material.
9 (5) The operator shall maintain the following loadchecking records under this section:
10 (A) Records of the number of rejected or redirected loads and reasons for rejection or redirection.
11 (B) Records of received loads with visible remnant organic material.
12 (C) Records of notices provided to jurisdiction and/or jurisdiction's designee pursuant to Subdivision
13 (b)(1)(3).
14 (D) Records of loadchecks and the training of personnel in evaluating the amount of remnant organic
15 material in gray container waste. These records shall be maintained for three (3) years in the operating
16 record and be available for review by the appropriate jurisdiction of origin, haulers, and other duly
17 authorized regulatory agencies.

18
19 **Note:**

20 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
21 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
22 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
23 and 39730.8 Health and Safety Code.

24
25 **Article 6.3. Record Keeping Requirements.**

26
27 **Section 17414.2. Recordkeeping and Reporting Requirements for Mixed Waste Organic Waste and**
28 **Source Separated Organic Waste**

29 (a).The operator shall keep the following records

- 30 (1) The results of each sample conducted pursuant to Sections 17409.5.2, 17409.5.3, 17409.5.4, and
31 17409.5.5.
32 (2) The daily outgoing weights of material recovered from the mixed organic waste stream.
33 (3) The daily outgoing weights of residuals removed from the mixed organic waste stream sent to disposal.
34 (4) The daily outgoing weights of material recovered from the source separated organic waste stream.
35 (5) The daily outgoing weights of residuals removed from the source separated, organic-waste stream sent
36 to disposal.
37 (6) The daily incoming weights of mixed organic waste.
38 (7) The daily incoming weights of source separated organic waste.
39 (8) The results of the formula calculated pursuant to Section 17409.5.8(b)(7).
40 (9) If the operator complies with the incompatible material requirements in Section 17409.5.8 by sending
41 material to a facility that meets the requirements of subdivisions (b) of Section 17409.5.8, the operator shall
42 keep a record of:
43 (A) The name, address, location, and if applicable the RDRS number, of each facility that material is
44 sent to.
45 (B) The daily outgoing weights of material sent to each facility by type.

46 (b) The records required in subdivision (a) and (b) shall be:

- 47 (1) Adequate for overall planning and control purposes.
48 (2) As current and accurate as practicable.

49 (c) All records required by this article shall be kept by the operator in one location and accessible for three (3)
50 years and shall be available for inspection by the EA and other duly authorized regulatory agencies during
51 normal working hours.

52 (d) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by
53 the EA.

54 (e) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7,
55 Chapter 9, Article 9.25, Section 18815.1 et. seq. The records shall be available for inspections as authorized by
56 that article during normal business hours and retained in the operating record near the site or in an alternative
57 location approved by the EA.

58
59 **Note:**

1 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
2 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
3 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
4 and 39730.8 Health and Safety Code.

Chapter 3.1. Composting Operations Regulatory Requirements

Article 1. General

9 Section 17852. Definitions
10 (a) (23.5) "Hauler" has the same meaning as defined in Section 18815.2(a)(32) of this division.

11 Note:

12 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
13 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
14 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
15 and 39730.8 Health and Safety Code.

Article 2. Regulatory Tiers for Composting Operations and Facilities.

Section 17855. Excluded Activities.

21 (a) Except as provided otherwise in this Chapter, the activities listed in this section do not constitute
22 compostable material handling operations or facilities and are not required to meet the requirements set forth
23 herein. Nothing in this section precludes the EA or the Department from inspecting an excluded activity to verify
24 that the activity is being conducted in a manner that qualifies as an excluded activity or from taking any
25 appropriate enforcement action.

26 (1) An activity is excluded if it handles agricultural material derived from an agricultural site, and returns a
27 similar amount of the material produced to that same agricultural site, or an agricultural site owned or
28 leased by the owner, parent, or subsidiary of the composting activity. No more than an incidental amount of
29 up to 1,000 cubic yards of compost product may be given away or sold annually.

30 (2) Vermicomposting is an excluded activity. The handling of compostable material prior to and after its use
31 as a growth medium during the vermicomposting process is not an excluded activity and is subject to the
32 requirements of this chapter or the Transfer/Processing Operations and Facilities Regulatory Requirements
33 (Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0-6.35), whichever is applicable, as
34 follows:

35 (A) when the compostable material is active compost or is likely to become active compost, as
36 determined by the EA, the requirements of this chapter apply;

37 (B) at all other times when it is not being used as a growth medium during vermicomposting, the
38 compostable material is subject to the Transfer/Processing Operations and Facilities Regulatory
39 Requirements.

40 (3) Mushroom farming is an excluded activity. The handling of compostable material prior to and after its
41 use as a growth medium during the mushroom farming process is not an excluded activity and is subject to
42 the requirements of this chapter or the Transfer/Processing Operations and Facilities Regulatory
43 Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0-6.35), whichever is
44 applicable, as follows:

45 (A) when the compostable material is active compost or is likely to become active compost, as
46 determined by the EA, the requirements of this chapter apply;

47 (B) at all other times when it is not being used as a growth medium during mushroom farming, the
48 compostable material is subject to the Transfer/Processing Operations and Facilities Regulatory
49 Requirements.

50 (4) Composting green material, agricultural material, food material, and vegetative food material, alone or in
51 combination, is an excluded activity if the total amount of feedstock and compost on-site at any one time
52 does not exceed 100 cubic yards and 750 square feet. [Note: Persons handling compostable material under
53 the above exclusion are obligated to obtain all permits, licenses, or other clearances that may be required
54 by other regulatory agencies including, but not limited to local health entities and local land use authorities.]

55 (5) The handling of compostable materials is an excluded activity if:

56 (A) the activity is located at a facility (i.e., landfill or transfer/processing facility) that has a tiered or full
57 permit as defined in section 18101,

- 1 1.has a Report of Facility Information which is completed and submitted to the EA that identifies and
2 describes the activity and meets the requirements of Titles 14 or 27; and,
3 2.will only use the material on the facility site, or
4 (B) the activity is solely for the temporary storage of biosolids sludge at a Publicly Owned Treatment
5 Works (POTW), or
6 (C) the activity is located at the site of biomass conversion and is for use in biomass conversion as
7 defined in Public Resources Code section 40106; or
8 (D) the activity is part of a silvicultural operation or a wood, paper, or wood product manufacturing
9 operation; or
10 (E) the activity is part of an agricultural operation and is used to temporarily store or process agricultural
11 material not used in the production of compost or mulch; or
12 (F) the activity is part of an operation used to chip and grind materials derived from and applied to lands
13 owned or leased by the owner, parent, or subsidiary of the operation; or
14 (G) the activity is part of an agricultural operation used to chip and grind agricultural material produced
15 on lands owned or leased by the owner, parent, or subsidiary of the agricultural operation, for use in
16 biomass conversion; or
17 ~~(H) the activity is part of a licensed animal food manufacturing or a licensed rendering operation.~~ An
18 activity that is a licensed animal food manufacturing activity, or a rendering activity which is authorized
19 by the California Department of Food and Agriculture pursuant to Section 19300 of the Food and
20 Agricultural Code, and in which no solid waste feedstock bypasses the manufacturing or rendering
21 process; or
22 (I) the activity is the storage of yard trimmings at a publicly designated site for the collection of lot
23 clearing necessary for fire protection provided that the public agency designating the site has notified the
24 fire protection agency; or
25 (J) the materials are handled in such a way to preclude their reaching temperatures at or above 122
26 degrees Fahrenheit as determined by the EA; or
27 (6) Storage of bagged products from compostable material is an excluded activity provided that such bags
28 are no greater than 5 cubic yards.

29 Note:

30 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
31 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
32 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
33 and 39730.8 Health and Safety Code.
34

35
36 **Article 5.0. Composting Operation and Facility Siting and Design Standards**

37
38 **Section 17867. General Operating Standards.**

- 39 (a) All compostable materials handling operations and facilities shall meet the following requirements:
40 (1) All handling activities are prohibited from composting any material specified in section 17855.2 of this
41 Chapter.
42 (2) All handling activities shall be conducted in a manner that minimizes odor impacts so as to not cause a
43 nuisance.
44 (3) All handling activities shall be conducted in a manner that minimizes vectors, litter, hazards, nuisances,
45 and noise impacts; and minimizes human contact with, inhalation, ingestion, and transportation of dust,
46 particulates, and pathogenic organisms.
47 ~~(4) Random load checks of feedstocks, additives, and amendments for contaminants shall be~~
48 ~~conducted.~~ The operator of an attended compostable materials handling operation or facility shall perform
49 loadchecking to identify the amount of visible contamination according to the following schedule:
50 (A) One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste
51 received per operating day. If the operator receives less than 500 tons for the operating day, a minimum
52 of two (2) loadchecks shall be conducted for that operating day.
53 (B) At least one loadcheck per day by source sector as defined in Section 18815.2(a)(51) of this division.
54 (C) The operator shall conduct a loadcheck in the presence of the EA when requested.
55 (D) The operator shall inform the jurisdiction of origin or jurisdiction's designee of received loads with
56 visible contamination.
57 (E) The EA may approve an alternative frequency for loadchecking if:
58 1. The facility receives waste from jurisdictions that are monitoring containers provided to generators
59 using the contamination minimization described in Section 18984.5, or

1 2. The EA determines that the incoming material from the source separated organic waste collection
2 stream does not contain any remnant organic material.
3

4 (5) Contamination of compostable materials that has undergone pathogen reduction, pursuant to section
5 17868.3 of this Chapter, with feedstocks, compost, or wastes that have not undergone pathogen reduction,
6 pursuant to section 17868.3 of this Chapter, or additives shall be prevented.

7 (6) Unauthorized human or animal access to the facility shall be prevented.

8 (7) Traffic flow into, on, and out of the composting operation or facility shall be controlled in a safe manner.

9 (8) All compostable materials handling operations and facilities that are open for public business shall post
10 legible signs at all public entrances. These signs shall include the following information:

11 (A) name of the operation or facility,

12 (B) name of the operator,

13 (C) facility hours of operation,

14 (D) materials that will and will not be accepted, if applicable,

15 (E) schedule of charges, if applicable, and

16 (F) phone number where operator or designee can be reached in case of an emergency.

17 (9) The operator shall provide fire prevention, protection and control measures, including, but not limited to,
18 temperature monitoring of windrows and piles, adequate water supply for fire suppression, and the isolation
19 of potential ignition sources from combustible materials. Firelanes shall be provided to allow fire control
20 equipment access to all operation areas.

21 (10) The operator shall provide telephone or radio communication capability for emergency purposes.

22 (11) Physical Contaminants and refuse removed from feedstock, compost, or chipped and ground material
23 shall be removed from the site within 7 days and transported to an appropriate facility.

24 (12) Enclosed operations and facilities shall provide ventilation to prevent adverse public health effects from
25 decomposition gases.

26 (13) The operator shall ensure that leachate is controlled to prevent contact with the public.

27 (14) The operator shall prevent or remove physical contaminants in compost and chipped and ground
28 materials that may cause injury to humans.

29 (15) An attendant shall be on duty during business hours if the operation or facility is open to the public.

30 (16) The operator shall determine the monthly percentage of organic waste contained in residuals removed
31 after processing.

32 (A) To determine the monthly percentage, the operator shall, each per operating day, measure the
33 amount of organic waste by weight present in the residuals removed after processing.

34 (B) The operator shall comply with subdivision (a)(16)(A) by using the following protocol:

35 1. Take at least a one (1) cubic yard sample of the residuals removed after processing at the
36 operation or facility on that operating day prior to sending to disposal. Each sample shall be:

37 i. Representative of a typical operating day.

38 ii. A random, composite sample taken either from various times during the operating day or from
39 various locations within the pile after processing.

40 2. Determine the total weight of the sample.

41 3. Remove any incompatible material and determine the remaining weight of the organic waste in the
42 sample.

43 4. Then determine the ratio of organic waste present in the residuals removed after processing by
44 dividing the total from subdivision (a)(16)(B)3 by the total from subdivision (a)(16)(B)2.

45 5. Determine the total weight of organic waste removed after processing that is sent for disposal by
46 multiplying the ratio determined pursuant to subdivision (a)(16)(B)4 by the total weight of the

47 residuals removed from the source separated organic waste collection stream after processing.

48 6. Determine the monthly sum of outgoing weights of organic waste present in the residuals after
49 processing that is sent for disposal as determined pursuant to subdivision (a)(16)(B)5.

50 7. Determine the monthly ratio of organic waste present in the residuals removed after processing by
51 dividing the total from subdivision (a)(16)(B)6 by the total monthly outgoing weights of residuals

52 removed that is sent for disposal.

53 8. Determine the monthly percentage of organic waste present in the residuals removed after

54 processing by multiplying the monthly ratio as determined pursuant to subdivision (a)(16)(B)7 by 100.

55 (C) The operator shall conduct a measurement in the presence of the EA when requested.

56 (D) If it is determined by the EA that the measurements do not accurately reflect the records, the EA
57 may require the operator to increase the frequency of measurements, revise the measurement protocol,
58 or both to improve accuracy.

- 1 (E) An alternative frequency for determining the amount of organic waste contained in the residuals may
2 be approved by the EA, with concurrence by the Department.
3 (F) For the purposes of the measurements required by this subdivision, organic waste that are textiles,
4 carpet, hazardous wood waste, plastic coated paper, human or pet waste, and material subject to a
5 quarantine on movement issued by a county agricultural commissioner is considered incompatible
6 materials rather than organic waste.
7 (G) Organic waste sent to an activity listed in Section 18983.1(a) of this division shall constitute disposal.
8

9 Note:

10 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
11 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
12 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
13 and 39730.8 Health and Safety Code.
14

15 **Article 8. Composting Operation and Facility Records**

16
17 **Section 17869. General Record Keeping and Reporting Requirements.**

18 Except as provided in subsection (d), all compostable materials handling operations and facilities shall meet the
19 following requirements:

20 (a) All records required by this Chapter shall be kept in one location and accessible for five (5) years and shall
21 be available for inspection by authorized representatives of the Department, EA, local health entity, and other
22 duly authorized regulatory and EAs during normal working hours.

23 (b) The operator shall record any special occurrences encountered during operation and methods used to
24 resolve problems arising from these events, including details of all incidents that required implementing
25 emergency procedures.

26 (c) The operator shall record any public complaints received by the operator, including:

- 27 (1) the nature of the complaint,
28 (2) the date the complaint was received,
29 (3) if available, the name, address, and telephone number of the person or persons making the complaint,
30 and
31 (4) any actions taken to respond to the complaint.

32 (d) ~~The operator shall record the quantity and type of feedstock received and quantity of compost and chipped~~
33 ~~and ground material produced, maintain records listed in this subdivision in a form and manner approved by the~~
34 EA. Agricultural compostable materials handling operations shall maintain records only for compostable
35 material accepted from off-site. Such records shall be adequate for overall planning and control purposes and
36 be as current and accurate as practicable. The records shall be maintained for three (3) years in the operating
37 record and be available for review by the appropriate jurisdiction of origin, haulers, and other duly authorized
38 regulatory agencies.

39 (e) The operator shall maintain the following load-checking records under this section

- 40 (1) Records of the number of rejected or redirected loads and reasons for rejection or redirection.
41 (2) Records of received loads with visible contamination.
42 (3) Records of loadchecks and the training of personnel in evaluating the amount of contamination in source
43 separated organic waste.
44 (4) Records of notices provided to jurisdiction and jurisdiction's designee pursuant to Section 17867(a)(4).
45 (5) The monthly percentage of organic waste contained in residuals removed from processing as calculated
46 pursuant to Section 17867(a)(16).
47 (6) Daily outgoing weights of residual sent to disposal.
48 (7) Daily outgoing weights of compost or chipped and ground material produced.
49 (8) Daily incoming weights by material type.

50 (e) ~~The operator shall record the number of load checks performed, loads with contamination that exceeds 10~~
51 ~~percent, and loads rejected and the reasons for rejection.~~

52 (f) The operator shall record all test results generated by compliance with Article 7 of this Chapter, including but
53 not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities,
54 temperature measurements, and dates of windrow turnings; chipping and grinding operations and facilities
55 must record the determinations of the percentage of physical contaminants required by 17862.1(d).

56 (1) The operator shall retain records detailing pathogen reduction methods.

57 (g) The operator shall record and retain records of any serious injury to the public occurring on-site and any
58 complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that

1 requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a
2 loss of any member of the body or suffers any degree of permanent disfigurement.
3 (h) The operator shall retain a record of training and instruction completed in accordance with section 17867.5.
4 (i) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7,
5 Chapter 9, Article 9.25, Section 18815.1 et.seq. The records shall be available for inspections as authorized by
6 that article during normal business hours and retained in the operating record near the site or in an alternative
7 location approved by the Local Enforcement Agency.

8
9 Note:

10 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
11 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
12 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
13 and 39730.8 Health and Safety Code.

14 15 **Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements**

16 17 **Article 1. In-Vessel Digestion Operations and Facilities Regulatory Requirements**

18 19 **Section 17896.2. Definitions**

20 (a)(12.5) "Hauler" has the same meaning as defined in Section 18815.2(a)(32) of this division.

21
22 Note:

23 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
24 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
25 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
26 and 39730.8 Health and Safety Code.

27 28 **Section 17896.6. Excluded Activities**

29 (a)(5) Rendering activities, authorized by the California Department of Food and Agriculture pursuant to Section
30 19300 of the Food and Agricultural Code, or an activity that is a licensed animal food manufacturing activity,
31 and in which no solid waste feedstock bypasses the rendering or manufacturing process.

32
33 Note:

34 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
35 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
36 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
37 and 39730.8 Health and Safety Code.

38 39 **Article 2.0. Siting and Design**

40 41 **Section 17896.25. Load Checking. – Prohibited Wastes.**

42 (a) The operator of an attended in-vessel digestion operation or facility shall implement a load checking
43 program to prevent the acceptance of waste which is prohibited by this Chapter. This program must include at
44 a minimum:

- 45 (1) the number of random load checks to be performed;
- 46 (2) a location for the storage of prohibited wastes removed during the load checking process that is
47 separately secured or isolated;
- 48 (3) records of load checks and the training of personnel in the recognition, proper handling, and disposition
49 of prohibited waste. A copy of the load checking program and copies of the load checking records for the
50 last year shall be maintained in the operating record and be available for review by the appropriate
51 regulatory agencies.

52
53 Note:

54 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
55 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
56 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
57 and 39730.8 Health and Safety Code.

58 59 **Section 17896.25.1. Loadchecking – Contamination in Source Separated Organic Waste.**

- 1 (a) The operator of an attended in-vessel digestion operation or facility shall perform loadchecking to identify
2 the amount of visible contamination according to the following schedule:
3 (1) One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste received
4 per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2)
5 loadchecks shall be conducted for that operating day.
6 (2) At least one loadcheck per month of each hauler by source sector as defined in Section 18815.2(a)(51).
7 (3) The operator shall inform the jurisdiction of origin or jurisdiction's designee of received loads with visible
8 contamination.
9 (b) The operator shall maintain the following loadchecking records under this section:
10 (1) Records of the number of rejected or redirected loads and reasons for rejection or redirection.
11 (2) Records of received loads with visible contamination.
12 (3) Records of loadchecks and the training of personnel in evaluating the amount of contamination in source
13 separated organic waste. These records shall be maintained for three (3) years in the operating record and
14 be available for review by the appropriate jurisdiction of origin, haulers, and other duly authorized regulatory
15 agencies.
16 (4) Records of notices provided to jurisdiction and jurisdiction's designee pursuant to subdivision (a)(3).
17 (c) The operator shall conduct a loadcheck in the presence of the EA when requested.
18 (d) The EA may approve an alternative frequency for loadchecking if:
19 (1) The facility receives waste from jurisdictions that are monitoring containers provided to generators using
20 the container contamination minimization described in Section 18984.5, or
21 (2) The EA determines that the incoming material from the source separated organic waste collection
22 stream does not contain any remnant organic material.
23

24 Note:

25 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.
26 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
27 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
28 and 39730.8 Health and Safety Code.
29

30 **Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities**

31
32 **Section 17896.44.1. Measuring Organic Waste in Residuals**

- 33 (a) The operator shall determine the monthly percentage of organic waste contained in residuals removed after
34 processing that is sent to disposal.
35 (1) To determine the monthly percentage, the operator shall, each per operating day, measure the amount
36 of organic waste by weight present in the residuals removed after processing.
37 (2) The operator shall comply with subdivision (a)(1) by using the following protocol:
38 (A) Take at least a one (1) cubic yard sample of the residuals removed after processing at the operation
39 or facility on that operating day prior to sending to disposal. Each sample shall be:
40 1. Representative of a typical operating day.
41 2. A random, composite sample taken either from various times during the operating day or from
42 various locations within the pile after processing.
43 (B) Determine the total weight of the sample.
44 (C) Remove any incompatible material and determine the remaining weight of the organic waste in the
45 sample.
46 (D) Then determine the ratio of organic waste present in the residuals removed after processing by
47 dividing the total from subdivision (a)(2)(C) by the total from subdivision (a)(2)(B).
48 (E) Determine the total weight of organic waste removed after processing that is sent for disposal by
49 multiplying the ratio determined pursuant to subdivision (a)(2)(D) by the total weight of the residuals
50 removed from the source separated organic waste collection stream after processing.
51 (F) Determine the monthly sum of outgoing weights of organic waste present in the residuals after
52 processing that is sent for disposal as determined pursuant to subdivision (a)(2)(E).
53 (G) Determine the monthly ratio of organic waste present in the residuals removed after processing by
54 dividing the total from subdivision (a)(2)(F) by the total monthly outgoing weights of residuals removed
55 that is sent for disposal.
56 (H) Determine the monthly percentage of organic waste present in the residuals removed after
57 processing by multiplying the monthly ratio as determined pursuant to subdivision (a)(2)(G) by 100.
58 (b) The operator shall conduct a measurement in the presence of the EA when requested.

- 1 (c) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may
2 require the operator to increase the frequency of measurements, revise the measurement protocol, or both to
3 the improve accuracy.
4 (d) An alternative frequency for determining the amount of organic waste contained in the residual may be
5 approved by the EA, with concurrence by the Department.
6 (e) Organic waste that are textiles, carpet, hazardous wood waste, plastic coated paper and material subject to
7 a quarantine on movement issued by a county agricultural commissioner is considered incompatible materials
8 rather than organic waste.
9 (f) Organic waste sent to an activity listed in Section 18983.1(a) shall constitute disposal.

10
11 Note:

12 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

13 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
14 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
15 and 39730.8 Health and Safety Code.

16 **Article 4. Record Keeping Requirements.**

17 **Section 17896.45. Record Keeping and Reporting Requirements.**

18 Each operator shall meet the following requirements:

19 (a) ~~Each operator shall maintain records of incoming weights or volumes and outgoing salvage or residual~~
20 ~~weights or volumes listed in this subdivision~~ in a form and manner approved by the EA. Such records shall be:
21 submitted to the EA or the Department upon request; be adequate for overall planning and control purposes;
22 and, be as current and accurate as practicable

23 (1) The operator shall maintain the following loadchecking records under this section:

24 (A) Records of the number of rejected or redirected loads and reasons for rejection or redirection.

25 (B) Records of received loads with visible contamination.

26 (C) Records of loadchecks and the training of personnel in evaluating the amount of contamination in
27 source separated organic waste.

28 (D) Records of notices provided to jurisdictions and jurisdiction's designee pursuant to Section
29 17896.25.1.

30 (E) The monthly percentage of organic waste contained in residuals removed from processing as
31 calculated pursuant to Section 17896.44.1.

32 (F) The outgoing weights or volumes of residual sent to disposal.

33 (G) Daily outgoing weights or volumes of organic waste recovered and produced.

34 (H) Daily outgoing weights or volumes of salvaged materials.

35 (I) Daily Incoming weights of material.

36 (b) All records required by this Chapter shall be kept by the operator in one location and accessible for five (5)
37 years and shall be available for inspection by the EA and other duly authorized regulatory agencies during
38 normal working hours.

39 (c) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by
40 the EA;

41 (d) The operator shall maintain a daily log book or file of special occurrences encountered during operations
42 and methods used to resolve problems arising from these events, including details of all incidents that required
43 implementing emergency procedures. Special occurrences shall include but are not limited to: fires, injury and
44 property damage, accidents, explosions, receipt or rejection of prohibited wastes, lack of sufficient number of
45 personnel pursuant to section 17896.42, flooding, earthquake damage and other unusual occurrences. In
46 addition, the operator shall notify the EA by telephone within 24 hours of all incidents requiring the
47 implementation of emergency procedures, unless the EA determines that a less immediate form of notification
48 will be sufficient to protect public health and safety and the environment;

49 (e) The operator shall record any written public complaints received by the operator, including:

50 (1) the nature of the complaint,

51 (2) the date the complaint was received,

52 (3) if available, the name, address, and telephone number of the person or persons making the complaint,
53 and

54 (4) any actions taken to respond to the complaint;

55 (f) The operator shall maintain a copy of the written notification to the EA and local health agency of the name,
56 address and telephone number of the operator or other person(s) responsible for the operations as required by
57 section 17896.42;

- 1 (g) The operator shall maintain records of employee training as required by section 17896.43;
2 (h) all in-vessel digestion operations and facilities shall maintain records as required by section 18809 et seq.
3 (i) The operator shall record all test results generated by compliance with Article 6 of this Chapter, including but
4 not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities,
5 temperature measurements, and dates of windrow turnings.
6 (1) The operator shall retain records detailing pathogen reduction methods.
7 (j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7,
8 Chapter 9, Article 9.25, Section 18815 et. seq. The records shall be available for inspections as authorized by
9 that article during normal business hours and retained in the operating record near the site or in an alternative
10 location approved by the Local Enforcement Agency.
11

12 Note:

13 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

14 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
15 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
16 and 39730.8 Health and Safety Code.
17

18 **Chapter 5. Enforcement of Solid Waste Standards and Administration of Solid Waste Facilities**
19 **Permits; Loan Guarantees**
20

21 **Article 2.2. LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities**
22

23 **Section 18083. LEA Duties and Responsibilities for Inspections.**

24 (a) Pursuant to Public Resources Code Division 30, Parts 4 and 5, and 14 CCR Division 7, Chapters 3 and 5,
25 27 CCR, Division 2, Subdivision 1 (§20005 et seq.), and its EPP, the LEA/EA shall inspect and investigate solid
26 waste collection, handling, and storage, solid waste facilities, operations and disposal sites and equipment to
27 verify compliance with the state minimum standards, solid waste facilities permits, and related state solid waste
28 laws and regulations within their purview for the protection of the environment and the public health. The LEA
29 shall perform these inspections and related duties as required below, and forward inspection reports to the
30 operator, and/or owner, and the Department within 30 days of the inspection:

31 (1) Weekly, for sites operating on performance standards pursuant to 27 CCR Section 20695;

32 (2) monthly, for all active and inactive facilities, and for illegal sites and facilities, pending abatement by
33 enforcement action(s);

34 (3) at the frequency required by the state minimum standards for each type of operation specified in 14
35 CCR Sections 17383.9., 17403.5., and 17896.9. All other operations regulated under the EA Notification tier
36 shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department
37 concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if
38 it will not pose an additional risk to public health and safety or the environment, and in no case shall the
39 inspection frequency be less than once per calendar year. The EA shall submit a copy of the EA-proposed
40 approval to the Department. The Department shall concur in the EA-proposed approval only if it finds that
41 the reduced inspection frequency will not pose an additional risk to public health and safety or the
42 environment in light of the specific circumstances at the operation in question. The Department shall concur
43 or deny the EA-proposed approval within thirty (30) days from receipt.

44 (4) quarterly, for closed sites, abandoned sites, and sites exempted pursuant to 27 CCR Section 21565. For
45 closed sites, inspections shall be made until no potential threat exists to public health and safety or the
46 environment. This determination shall be subject to Department approval. For the purposes of this
47 subsection, the enumeration, and the workload analysis, a closed site means a site that has ceased
48 accepting waste and, should be closed, is undergoing closure, or has met applicable closure requirements;

49 (A) the Department may approve an alternate inspection frequency for these sites where such an action
50 will not result in adverse impact on public health and safety and the environment.

51 (5) if an LEA has been designated as the EA for waste tire facilities or entered into an agreement with the
52 Department through a grant program to inspect tire facilities, major waste tire facilities shall be inspected
53 annually, minor waste tire facilities shall be inspected at least once every two and a half years pursuant to
54 14 CCR Section 18443;

55 (6) upon receipt of a complaint or emergency notification which cannot be resolved off-site;

56 (7) as necessary, pursuant to the EPP, upon receipt of a solid waste facilities permit application, revision,
57 review, RFI amendment, or closure/postclosure plan; and

58 (8) pursuant to the EPP, for solid waste handling and collection equipment.

1 (b) As specified in their EPP pursuant to Section 18077, the LEA/EA shall conduct any of the above
2 inspections, whenever possible, without prior notice to the owner or operator, on randomly selected days,
3 during normal business hours or the site's operating hours.

4 (c) At least once per quarter, the EA shall oversee a minimum of one (1) measurement as described in 14 CCR
5 Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.8, 17867 and 17896.44.1, during an inspection
6 required in subdivision (a).

7
8 Note:

9 Authority cited: Sections 40502, 43020, 43021, and 42652.5 Public Resources Code.

10 Reference: Sections 40002, 40053, 41780.01, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017,
11 44100-44101, 44500-44503 and 44813-44816 Public Resource Code and Sections 39730.5, 39730.6, 39730.7
12 and 39730.8 Health and Safety Code.

13

The dotted underline text in the following section denotes text from a separate rulemaking package pending OAL review. That text is not part of this rulemaking and not subject to comments under this rulemaking. The text denoted by double underline is part of this rulemaking (they show proposed additions to that pending language) and comments may be submitted on that portion of the text on this page.

Chapter 9: Planning Guidelines and Procedures for Preparing, Revising, and Amending Countywide or Regional Integrated Waste Management Plans

Article 9.25 Recycling and Disposal Reporting System

Section 18815.4 Reporting Requirements for Haulers.

- (a) A self-hauler shall provide the jurisdiction of origin for all material delivered to each transfer/processor or disposal facility. A self-hauler does not have to report to the Department, unless they are a food waste self-hauler.
- (b) "Food waste self-haulers" as defined in section 18815.2(a)(27) of this article, shall report to the Department the tons of food waste sent as follows:
- (1) To a reporting entity inside California, report the tons of each material type, pursuant to section 18815.9 of this article, and their contact information and RDRS number.
 - (2) To an end user inside or outside California, report the tons of each material type, pursuant to section 18815.9 of this article, sent to each end user category, by region, pursuant to section 18815.3(k) of this article.
 - (3) To a recycling or composting facility or operation outside California, report the tons of each material type, pursuant to section 18815.9 of this article, by region, pursuant to section 18815.3(l) of this article.
 - (4) To each transfer/processor or disposal facility outside California, report the total tons of each material type, pursuant to section 18815.9 of this article, sent to each person, and their contact information.
- (c) A contract hauler shall provide the following information to a receiving reporting entity for all tons delivered, using the methods in section 18815.9 of this article. A hauler shall provide the information at the time of delivery, unless both the hauler and receiving facility have previously agreed to periodic reports in lieu of providing information at the time of delivery. In all cases, the hauler shall provide the information to the receiving reporting entity within 30 days of the end of the reporting period.
- (1) For solid waste hauled:
 - (A) A hauler shall provide the jurisdiction of origin for all material sent to each transfer/processor or disposal facility; and
 - (B) If requested by a transfer/processor or disposal facility, then a hauler shall provide the source sector for all material delivered to each broker or transporter, transfer/processor, or disposal facility, in tons or by percentage using the methods provided in section 18815.9 of this article.
- (d) A contract hauler who takes material directly from a generator and hauls it to land application or to a person outside of the state shall report to the Department. In their report to the Department, a contract hauler shall provide the following information for tons hauled, using the methods described in section 18815.9 of this article:
- (1) Directly from a generator to land application, the tons of each material type sent by region pursuant to section 18815.3(k) of this article.
 - (2) Directly from a generator to a person outside of the state:
 - (A) For solid waste, the total tons by jurisdiction of origin for all material sent to a disposal facility or transfer/processor, their contact information, and an estimate of the overall source sector tons or percentages for waste sent.
 - (B) For green material sent to each transfer/processor or disposal facility for potential beneficial reuse, the total tons by jurisdiction of origin, and the contact information of the receiving facility.
 - (C) For non-green material sent to each transfer/processor or disposal facility for potential beneficial reuse, the total tons by material type pursuant to section 18815.9, and the contact information of the receiving facility.

1 (D) For disaster debris and designated waste sent to each transfer/processor or disposal facility, the
2 total tons of each stream, and the contact information of the receiving facility.

3 (E) For material sent to recycling or composting facilities or operations, the tons of each material type
4 sent by region.

5 (F) To end users, the tons of each material sent to each end user category by region pursuant to
6 section 18815.3(k) of this article.

7 (3) A hauler shall submit their report to the Department by the following due dates for each reporting
8 period:

9 (A) Reporting period 1 due April 30,

10 (B) Reporting period 2 due July 31,

11 (C) Reporting period 3 due October 31, and

12 (D) Reporting period 4 due January 31.

13 (e) For the purposes of RDRS reporting, the Department shall not require a hauler to submit information on
14 specific collection locations or customers when providing jurisdiction of origin, material type or source
15 sector information to other reporting entities or to the Department as part of a quarterly report.

16 (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts,
17 local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

18 (2) The Department may require a hauler to submit this information in lieu of an audit, or as part of an
19 audit or administrative proceeding.

20 (f) Commencing January 1, 2022, a hauler providing an organic waste collection service pursuant to
21 Article 3, Chapter 12 of this Division shall identify, for all materials delivered to each receiving reporting
22 entity whether the material is:

23 (1) Collected from a "source separated organic waste collection stream" as defined in section 17402
24 (a)(18.6) of this Division.

25 (2) Collected from "mixed waste organics collection stream" as defined in in section 17402 (a)(11.5) of this
26 Division that is required to be transported to a high diversion organic waste processing facility.

27 Notwithstanding subdivision (b), a hauler shall provide the information required by this subdivision at the time of
28 delivery.

29 Authority Cited: Sections 40401, 40502, and 41821.5(e), and 42652.5 Public Resources Code.

30 Reference: Sections 41821.5 and 41821.6 Public Resources Code and 39730.5, 39730.6, 39730.7, and
31 39730.8 Health and Safety Code.

32 **Section 18815.5 Reporting Requirements for Transfer/Processors.**

33 (a) In their report to the Department, a transfer/processor shall provide the following information, using the
34 methods in section 18815.9 of this article:

35 (1) For all tons accepted:

36 (A) From another transfer/processor, report the tons of each of the following streams: solid waste,
37 disaster debris, designated waste, green material potential beneficial reuse, and all other potential
38 beneficial reuse accepted from each facility and the sending facility's contact information and
39 RDRS number, if applicable.

40 (B) For direct-hauled material, report the total aggregated tons of each of the following streams:
41 solid waste, disaster debris, designated waste, green material potential beneficial reuse, and all
42 other potential beneficial reuse. The tonnages for solid waste and green material potential
43 beneficial reuse shall be further divided by jurisdiction of origin.

44 (C) Include accepted residuals generated by a recycling or composting facility or operation that is
45 reporting under the same RDRS number as a transfer/processing facility or operation pursuant to
46 section 18815.3(d)(4) of this article in the total tons accepted as direct-hauled, pursuant to
47 paragraph (B), assigning the tons to the jurisdiction within which the site is located.

48 (2) For all tons sent to recyclers, composters, brokers, transporters, or end users pursuant to section
49 18815.9 of this article:

- 1 (A) To a recycling or composting facility or operation, with a different RDRS number inside California,
2 report the tons by material type, pursuant to section 18815.9(a) of this article, and their contact
3 information and RDRS number, if applicable.
4 (B) To an end user, report the tons of each material type, pursuant to section 18815.9(a) of this
5 article, sent to each end user category by region pursuant to section 18815.3(k) of this article.
6 (C) To a broker or transporter:
7 (i) In cases where the final destination of the material is determined by the reporting
8 transfer/processor, report pursuant to subsections (a)(2)(A), (a)(2)(B), and (a)(2)(E).
9 (ii) In cases where the final destination of the material is not determined by the reporting
10 transfer/processor, report tons of each material type, pursuant to section 18815.9(a) of this
11 article, sent to each broker or transporter and their contact information and RDRS number, if
12 applicable.
13 (D) To a recycling or composting facility or operation with the same RDRS number, report pursuant to
14 section 18815.9(h) of this article.
15 (E) To a recycling or composting facility or operation outside California, report the tons of each
16 material type by region.
17 (3) For all tons sent to transfer/processors or disposal facilities inside or outside of California of each of
18 the following streams: recycling and composting, solid waste, disaster debris, designated waste, green
19 material potential beneficial reuse, and all other potential beneficial reuse:
20 (A) To each transfer/processor or disposal facility, report the total tons of each stream, and their
21 contact information and RDRS number, if applicable. Report the percentage of solid waste and
22 green material potential beneficial reuse received from each transfer/processor; and the total
23 percentage of materials that were direct-hauled pursuant to subsection (a)(1)(B). The percentage
24 that was direct-hauled pursuant to subsection (a)(1)(B) shall be further divided into the jurisdictions
25 of origin of solid waste and green material potential beneficial reuse.
26 (B) For all tons of solid waste, the percentage that was direct-hauled pursuant to subsection (a)(1)(B)
27 shall be divided into source sectors, using methods described in section 18815.9(c) of this article.
28 Source sector shall be reported to the department as a facility-wide estimate.
29 (C) For all other material sent for potential beneficial reuse to a landfill or other transfer/processor
30 inside or outside California, report the tons sent to each facility by material type pursuant to
31 section 18815.9(a)(3) of this article, and the facility's contact information and RDRS number, if
32 applicable.
33 (D) For material sent for recycling to each transfer/processor or disposal facility with a different RDRS
34 number inside California, report the tons by material type, and the facility's contact information and
35 RDRS number, if applicable.
36 (E) For material sent for recycling to each transfer/processor or disposal facility outside California,
37 report the tons by material type and region.
38 (b) A transfer/processor shall report to the Department by the following due dates for each reporting period:
39 (1) Reporting period 1 due May 31,
40 (2) Reporting period 2 due August 31,
41 (3) Reporting period 3 due November 30, and
42 (4) Reporting period 4 due February 28.
43 (c) With the exception of reporting entities who fail to provide required information, for the purposes of RDRS
44 reporting, the Department shall not require a transfer/processor to submit information on the identities of
45 individual haulers when providing jurisdiction of origin, or source sector information to the Department as
46 part of their report. The Department shall not require a transfer/processor to submit information on the
47 identities of individual end users when providing material type or region to the Department as part of their
48 report.
49 (1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts,
50 local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.
51 (2) The Department may require a transfer/processor to submit this information in lieu of an audit or as
52 part of an audit or administrative proceeding.
53 (d) Commencing with the first reporting period in 2022, and in each subsequent reporting period thereafter:
54 (1) A reporting receiving facility that receives material from a "mixed waste organic collection stream" as
55 defined in section 17402 (a)(11.5) of this Division shall, for the purposes of determining the annual
56 average organic content recovery rate for organic waste received from the mixed waste organic

- 1 collection stream as specified in section 18984.3 and 17409.5.1 of this Division, report the following
2 to the Department:
3 (A) The quarterly sum of outgoing weights of organic waste recovered from the mixed waste organic
4 collection stream as determined pursuant to Section 17409.5.1 (c)(1) of this Division.
5 (B) The quarterly sum of outgoing weights of organic waste from the mixed waste organic collection
6 stream that is sent to disposal as determined pursuant to Section 17409.5.1 (c)(2) of this Division.
7 (C) The sum of records in 17414.2 (a)(2), 17414.2(a)(3), and 17414.2 (a)(6) of outgoing and incoming
8 weights of material from the mixed waste organic collection stream.
9 (2) A Reporting Receiving facility that receives material from a "source separated organic waste collection
10 stream" as defined in section 17402 (a)(18.6) shall report the following to the department:
11 (A) The quarterly sum of outgoing weights of organic waste recovered from the source separated
12 organic collection stream as determined pursuant to Section 17409.5.1 (d)(1) of this Division.
13 (B) The quarterly sum of outgoing weights of organic waste recovered from the source separated
14 organic collection stream as determined pursuant to Section 17409.5.1(d)(2) of this Division.
15 (e) The Department shall determine if a facility meets or exceeds the recovery efficiency percentages specified
16 in Section 18984.3 and 17409.5.1 of this Division in the following manner.
17 (1) The Department shall determine the quarterly recovery efficiency by dividing the value of recovered
18 organic waste reported in subdivision (d)(1)(A)[Recovered Organics (RO)] by the combined value of
19 recovered and residual organic waste reported in (d)(1)(A) and (d)(1)(B)[Total Available
20 Organics(TAO)]: RO/TAO = Recovery Efficiency
21 (2) The Department shall use the total weights for the immediately previous four quarters to determine the
22 facility's annual recovery efficiency which shall constitute the annual average mixed waste organic
23 content recovery rate for the purposes of section 18984.3 of this Division.
24 (3) The annual average mixed waste organic content recovery rate shall be determined by using the last
25 four quarterly rates. A new annual average shall be calculated each quarter.

26
27 Authority Cited: Sections 40502, and 41821.5(e), and 42652.5 Public Resources Code.

28
29 Reference: Sections 41821.5 and 41821.6 Public Resources Code, and 39730.5, 39730.6, 39730.7, and
30 39730.8 Health and Safety Code.

31
32 **Section 18815.7 Reporting Requirements for Recycling and Composting Facilities and Operations.**

- 33
34 (a) In its report to the Department, a recycling or composting facility or operation shall provide the following
35 information for all tons handled, using the methods described in section 18815.9 of this article:
36 (1) For materials sent for disposal or potential beneficial reuse to each transfer/processor or disposal
37 facility with a different RDRS number inside or outside of California, report the total tons of each
38 material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS
39 number, if applicable.
40 (2) For materials sent to each recycling or composting facility or operation with a different RDRS number,
41 or for recycling at each transfer/processor with a different RDRS number inside California, report the
42 tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information
43 and RDRS number, if applicable.
44 (3) For materials sent to a recycling or composting facility or operation with the same RDRS number,
45 report pursuant to section 18815.9(h) of this article.
46 (4) For intermediate products sent to end users inside or outside of California, report the tons of each
47 material type, pursuant to section 18815.9(a) of this article, sent to each end user category by region
48 pursuant to section 18815.3(k) of this article.
49 (5) For materials sent to a broker or transporter, report:
50 (A) In cases where the final destination of the material is determined by the reporting recycling or
51 composting facility or operation, report pursuant to subsections (a)(1), (a)(2), (a)(4), and (a)(6) as
52 applicable.
53 (B) In cases where the final destination of the material is not determined by the reporting recycling or
54 composting facility or operation, report tons of each material type, pursuant to section 18815.9(a)
55 of this article, sent to each broker or transporter and their contact information and RDRS number,
56 if applicable.

- 1 ~~(6) For materials sent to each recycling or composting facility or operation outside California, or for~~
2 ~~recycling at a transfer/processor outside California, report the tons of each material type by region.~~
3 ~~(b) A recycling or composting facility or operation is not required to report on material sold for reuse or~~
4 ~~transferred for reuse.~~
5 ~~(c) A recycler who handles business-to-business post-industrial materials, but also handles materials that do~~
6 ~~not meet the criteria in section 18815.2(a)(8) of this article, shall:~~
7 ~~(1) Report as a recycler pursuant to this section for all materials that do not meet the criteria for business-~~
8 ~~to-business post-industrial recycling, and~~
9 ~~(2) Not include information or tonnages associated with the business-to-business post-industrial materials~~
10 ~~recycled as defined in section 18815.2(a)(8) of this article.~~
11 ~~(d) A recycling or composting facility or operation shall report to the Department by the following due dates for~~
12 ~~each reporting period:~~
13 ~~(1) Reporting period 1 due May 31.~~
14 ~~(2) Reporting period 2 due August 31.~~
15 ~~(3) Reporting period 3 due November 30, and~~
16 ~~(4) Reporting period 4 due February 28.~~
17 ~~(e) With the exception of other reporting entities, for the purposes of RDRS reporting, the Department shall~~
18 ~~not require a recycling and composting facility or operation to submit information on the identities of~~
19 ~~individual end users, suppliers, or customers when providing material type information to the Department~~
20 ~~as part of a quarterly report.~~
21 ~~(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts,~~
22 ~~local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.~~
23 ~~(2) The Department may require that a recycler/composter submit this information in lieu of an audit, or as~~
24 ~~part of an audit or administrative proceeding.~~
25 ~~(f) Commencing with first reporting period in 2022, and in each subsequent reporting period thereafter~~
26 ~~(1) A recycling or compost facility or operations shall, if applicable, additionally report the following to the~~
27 ~~department:~~
28 ~~(A) The monthly percentage organic waste contained in residuals removed from processing as~~
29 ~~calculated pursuant to 17869(e)(5) or 17896.45 (a)(1)(E)~~

30 Authority Cited: Sections 40502, and 41821.5(e), and 42652.5 Public Resources Code,
31

32 Reference: Sections 41821.5 and 41821.6 Public Resources Code and 39730.5, 39730.6, 39730.7, and
33 39730.8 Health and Safety Code.

Title 27. Environmental Protection
Division 2. Solid Waste

Chapter 2. Definitions

Article 2. Specific Definitions

Section 20164.

"Hauler" has the same meaning as defined in Section 18815.2(a)(32) of this division.

Chapter 3. Criteria for All Waste Management Units, Facilities, and Disposal Sites

Subchapter 4. Criteria for Landfills and Disposal Sites

Article 2: Alternative Daily Cover Material and Beneficial Reuse

§20700.5. CalRecycle—Long-Term Intermediate Cover.

(a) Compacted earthen material at least 36 inches shall be placed on all surfaces of the fill where no additional solid waste will be deposited within 30 months to control methane emissions.

(1) The EA may approve, with concurrence by the Department, an alternative long-term intermediate cover if the operator demonstrates that the alternative is equivalent to 36 inches of earthen material.

(b) For waste classification, composition, and liquid percolation requirements of intermediate cover, refer to the SWRCB requirements set forth in 27 CCR Section 20705.

1
2 Note:

3 Authority cited: Section 40502, 41781.3, 43020, and 42652.5 Public Resources Code.

4
5 Reference: Sections 40002,40053,40508, 42652.5, 42653, 42654,43020,43021 43103,44001-44017, 44100-
6 44101, 44500-44503 and 44813-44816, Public Resources Code; Sections 39730.5, 39730.6, 39730.7 and
7 39730.8 Health and Safety Code; and Code of Federal Regulations Section 258.21.

8
9 **Article 3: CIWMB CalRecycle—Handling, Equipment, and Maintenance**

10
11 **§20750.1. CalRecycle— Organic Waste Handling.**

12 (a) For new or expanding solid waste landfills:

13 (1) The operator shall implement organic waste recovery activities, as approved by the EA, organic waste
14 recovery activities shall be confined to specified, clearly identifiable areas of the site and shall be arranged
15 to minimize health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to a
16 volume and storage time as approved by the EA.

17 (A) Receipt of solid wastes that have already been processed through a high diversion organic waste
18 processing facility does not need to be processed at the organic recovery activity.

19 (b) For the purposes of this section "organic waste recovery activities" means activities that divert organic
20 waste from disposal to constitute a reduction of landfill disposal of organic waste as defined in Article 2 of
21 Chapter 12 of Division 7 of Title 14 of the California Code of Regulations (commencing with Section 18983),
22 either on-site or transport to another site where those activities occur.

23 (c) For the purposes of the section, "expanding" means a solid waste landfill proposing to make a significant
24 change to the design or operation as determined by the EA pursuant to 27 CCR Section 21665.

25 (1) Changing the hours of operation of a landfill is not considered an expansion pursuant to 14 CCR Section
26 20750.1(c).

27
28 Note:

29 Authority cited: Section 40502, 43020, and 42652.5 Public Resources Code.

30
31 Reference: Sections 40002,40053,40508, 42652.5, 42653, 42654,43020,43021 43103,44001-44017, 44100-
32 44101, 44500-44503 and 44813-44816, Public Resources Code; Sections 39730.5, 39730.6, 39730.7 and
33 39730.8 Health and Safety Code.

34
35 **Article 4. CIWMB CalRecycle—Controls**

36
37 **§20901. CalRecycle—Loadchecking Contamination in Source Separated Organic Waste.**

38 (a) The operator shall implement a loadchecking program to identify the amount of visible contamination in
39 source separated organic waste according to the following schedule:

40 (1) One (1) loadcheck shall be conducted for every 500 tons of source separated organic waste received
41 per operating day. If the operator receives less than 500 tons for the operating day, a minimum of two (2)
42 loadcheck shall be conducted for that operating day;

43 (2) At least one loadcheck per month of each hauler by source sector as defined in Section 18815.2(a)(51).

44 (3) At least one loadcheck per quarter from each service area.

45 (4)The operator shall inform the jurisdiction of origin or jurisdiction's designee of received loads with visible
46 contamination.

47 (b) The operator shall maintain the following loadchecking records under this section;

48 (1) Records of the number of rejected or redirected loads and reasons for rejection or redirection;

49 (2) Records of received loads with contamination that exceeds 10 percent.

50 (3) Records of notices provided to operators and or jurisdictions pursuant to Section 18984. 5 of this
51 division.

52 (4) Records of loadchecks and the training of personnel in evaluating the amount of contamination in source
53 separated organic waste. These records shall be maintained for three (3) years in the operating record and
54 be available for review by the appropriate jurisdiction of origin, haulers, and other duly authorized regulatory
55 agencies.

56 (c) The operator shall conduct a loadcheck in the presence of the EA when requested.

57 (d) The EA may approve an alternative frequency for loadchecking if:

58 (1) The facility receives waste from jurisdictions that are monitoring containers provided to generators using
59 the container contamination minimization described in Section 18984.5, or

1 (2) The EA determines that the incoming material from the source separated organic waste collection
2 stream does not contain any remnant organic material.
3

4 Note:

5 Authority cited: Section 40502, 43020, and 42652.5 Public Resources Code.
6

7 Reference: Sections 40002, 40053, 40508, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-
8 44101, 44500-44503 and 44813-44816, Public Resources Code; Sections 39730.5, 39730.6, 39730.7 and
9 39730.8 Health and Safety Code.
10

11
12 **Chapter 4. Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans**

13
14 **Subchapter 3: Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility**
15 **Permits**

16
17 **Article 2. CalRecycle—Applicant Requirements**

18
19 **§21570. CalRecycle—Filing Requirements.**

20 (a) Any operator of a disposal site who is required to have a full solid waste facilities permit and waste
21 discharge requirements pursuant to Public Resources Code, Division 31 and §20080(f) shall submit an
22 application package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f). The applicant shall
23 also simultaneously submit one copy of the application form and the Joint Technical Document (JTD) to the
24 Regional Water Quality Control Board (RWQCB) and one copy of the application form to the director of the
25 local agency that oversees local land use planning for the jurisdiction in which the site is located. The applicant
26 shall ensure demonstration of financial assurances to CalRecycle pursuant to Chapter 6 of this Subdivision.

27 (b) All other applicants who are required to have a full solid waste facilities permit shall submit an application
28 package for a solid waste facilities permit in duplicate to the EA pursuant to ¶(f) and one copy of the application
29 form to the director of the local agency that oversees local land use planning for the jurisdiction in which the site
30 is located. The applicant shall also simultaneously submit one copy of the application form to the RWQCB.

31 (c) Any application package submitted to the EA shall be accompanied by the fee specified by the EA pursuant
32 to Public Resources Code §44006(c).

33 (d) The application package shall require that information be supplied in adequate detail to permit thorough
34 evaluation of the environmental effects of the facility and to permit estimation of the likelihood that the facility
35 will be able to conform to the standards over the useful economic life of the facility. The application package
36 shall require, among other things, that the applicant and the owner give the address at which process may be
37 served upon them.

38 (e) All information in the application package shall be certified by the applicant and the owner of the site as
39 being true and accurate to the best knowledge and belief of each. The applicant, owner of the facility, or both,
40 shall supply additional information as deemed necessary by the EA.

41 (f) A complete and correct application package shall include, but not necessarily be limited to, the following
42 items:

43 (1) Application For Solid Waste Facilities Permit/Waste Discharge Requirements Form (CalRecycle E-1-77,
44 Version 11-15, Appendix 1); and

45 (2) Complete and correct Report of Facility Information. In the case of disposal sites, this will be a Report of
46 Disposal Site Information (RDSI) in the format of a JTD or a Disposal Site Facility Plan or Disposal Facility
47 Report in the format of a JTD; and

48 (3) California Environmental Quality Act (CEQA) compliance information as follows:

49 (A) Evidence that there has been compliance with the CEQA, Division 13 (commencing with §21000) of
50 the Public Resources Code, regarding the facility; or

51 (B) Information on the status of the application's compliance with the CEQA regarding the facility,
52 including the proposed project description. Once there has been compliance with the CEQA regarding
53 the facility, evidence of compliance shall be submitted to the EA; and

54 (4) Any CEQA Mitigation Monitoring Implementation Schedule; and

55 (5) Conformance finding information, including one of the following:

56 (A) Until a countywide or regional agency integrated waste management plan has been approved by
57 CalRecycle, the application shall include statements that: the facility is identified and described in or
58 conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources

1 Code §50000; and that the facility is consistent with the city or county General Plan and compatible with
2 surrounding land use, in accordance with Public Resources Code §50000.5; or

3 (B) After a countywide or regional agency integrated waste management plan has been approved by
4 CalRecycle, the application shall include a statement that: the facility is identified in either the
5 countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling
6 Element for the jurisdiction in which it is located; or, that the facility is not required to be identified in any
7 of these elements pursuant to Public Resources Code §50001; and

8 (6) For disposal sites, completeness determination of Preliminary or Final Closure/Postclosure Maintenance
9 Plan as specified in §§21780, 21865, and 21890 (Subchapter 4 of this chapter); and

10 [Note: The operator has the option of submitting the preliminary closure plan with the JTD, in which case the
11 EA, RWQCB, and CalRecycle would review it at the same time. If deemed complete by the reviewing
12 agencies, the solid waste facilities permit application package could then be accepted for filing if all other
13 information in the JTD is accepted by the EA. Or the operator can submit a stand alone preliminary closure
14 plan to be deemed complete by reviewing agencies before the application package is submitted to the EA.
15 For CalRecycle purposes, all final closure/postclosure plans are stand alone documents but can be
16 processed jointly with a proposed solid waste facilities permit revision as long as the final plan is determined
17 complete prior to approval of the proposed solid waste facilities permit. The JTD Index prepared for the EA
18 should show where each closure requirement is addressed in the closure/post-closure plan.]

19 (7) For disposal sites, a copy of the most recently submitted detailed written estimate or latest approved
20 estimate, whichever identifies the greatest cost, to cover the cost of known or reasonably foreseeable
21 corrective action activities, pursuant to §22101;

22 (8) For disposal sites, current documentation of acceptable funding levels for required closure, postclosure
23 maintenance, and corrective action Financial Assurance Mechanisms (in accordance with Chapter 6,
24 Division 2); and

25 (9) For disposal sites, current documentation of compliance with operating liability requirements in
26 accordance with Chapter 6;

27 (10) For disposal sites permitted for more than 20 tons-per-day, a ground or aerial survey to be completed
28 at least once every five years or more frequently as determined by the EA. For disposal sites permitted for
29 20 tons-per-day or less, a ground or aerial survey must be completed at least once every ten years. Survey
30 results must be submitted as a CADD or vector graphics data file including at least two strata, i.e., 1) a
31 stratum showing the base and finished ground surfaces, and 2) a stratum showing the existing and finished
32 ground surfaces. For disposal sites where a change in permitted volume is proposed, a third stratum
33 showing the base and proposed finished ground surface must be included. For each stratum the following
34 information shall be included: site name, stratum name, surface1 name, surface2 name, volume calculation
35 method (grid, composite, section), expansion (cut) factor, compaction (fill) factor, cut volume, fill volume and
36 net volume. All volumes shall be reported in cubic yards. If the base ground surface is uncertain, the
37 operator is allowed to provide the best available information as a substitute for the actual as-built contours.
38 If selecting this substitute method, the operator must provide an explanation of the basis for using the
39 substitute base ground surface. For the purposes of this section the following definitions apply:

40 (A) "base ground surface" - the best available excavation plan surface that existed prior to the
41 placement of any waste;

42 (B) "CADD" - computer aided design and drafting;

43 (C) "compaction (fill) factor" - the factor used to correct for expected compaction of fill material; this
44 factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for
45 the basis of the volumetric correction;

46 (D) "cut volume" - for any stratum, the volume removed by a cut of a lower surface to achieve the upper
47 surface;

48 (E) "existing ground surface" - the topography that exists at the time of the subject survey;

49 (F) "expansion (cut) factor" - the factor used to correct for expected expansion of a cut surface; this
50 factor should normally be unity (one); if the factor is not unity (one), an explanation must be provided for
51 the basis of the volumetric correction;

52 (G) "fill volume" - for any stratum, the volume bound between the upper and lower surfaces;

53 (H) "finished ground surface" - the final fill plan surface as shown in the approved closure plan for the
54 disposal site;

55 (I) "net volume" - the fill volume less the cut volume;

56 (J) "site name" - the name of the disposal site for which the survey information is being submitted;

57 (K) "stratum (plural: strata)" - a particular volume of a solid waste landfill bound by specified upper and
58 lower surfaces;

- 1 (L) "stratum name" - a descriptive name for the stratum for which volumetric information is being
2 submitted, e.g., total volume including proposed expansion;
3 (M) "surface names" - names for the pair of surfaces that define a named stratum, e.g., base ground
4 surface and proposed finished ground surface;
5 (N) "survey" - a comprehensive examination of the disposal site under the direction of registered civil
6 engineer or licensed land surveyor for purposes of determining the topography of the base, existing and
7 finished ground surfaces, and the volumes bound by those surfaces;
8 (O) "vector graphics" - computer generated images comprised of lines and shapes of given origin,
9 direction, thickness, color and other attributes;
10 (P) "volume calculation method" - grid, composite, section or other method approved by the enforcement
11 agency.

12 (11) For disposal sites, one of the following:

13 (A)

- 14 (i) In-place density (pounds of waste per cubic yard of waste). The in-place density is the estimated
15 or measured density of in-place waste material achieved by mechanical or other means in the
16 development of the current lift of the current operating waste cell, and
17 (ii) Waste-to-cover ratio, estimated, (volume:volume). The waste-to-cover ratio estimate is a unit-less
18 expression of the proportion of the volumes of waste and cover that comprise a volume of
19 compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should
20 include only soil or approved daily or intermediate alternative cover that is not considered a waste
21 material, i.e., payment of fees to CalRecycle is not required. The waste portion of the waste-to-cover
22 ratio estimate should include only waste material for which payment of fees to CalRecycle is
23 reported, or

24 (B) Airspace utilization factor (tons of waste per cubic yard of landfill airspace). The airspace utilization
25 factor (AUF) is the effective density of waste material in the landfill. The AUF is recorded as the total
26 weight of waste material passing over the landfill scales that is placed in a known volume of landfill
27 airspace in a given period of time. The waste portion of the AUF should include only waste material for
28 which payment of fees to CalRecycle is reported.

29 (12) List of all public hearings and other meetings open to the public that have been held or copies of
30 notices distributed that are applicable to the proposed solid waste facilities permit action.

31 (13) For new or expanded solid waste facilities, provide evidence that the operator held a public meeting
32 with any affected groups or disadvantaged communities within 180 days prior to submittal of the permit
33 application package.

34 (A) Provide copies (hard copy or electronic) of notices distributed to the affected groups or
35 disadvantaged communities.

36 (B) Provide a summary of the comments received at the public meeting and, where applicable,
37 responses to public comments and any other steps taken by the applicant relative to those comments.

38 (C) For the purposes of this section disadvantaged communities means communities identified by the
39 California Environmental Protection Agency pursuant to Section 39711 of the Health and Safety Code.

40 **Note:**

41 Authority cited: Section 40002, 40502, 43020, and 42652.5 Public Resources Code.

42 Reference: Sections 40002, 40053, 40508, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-
43 44101, 44500-44503 and 44813-44816, Public Resources Code; Sections 39730.5, 39730.6, 39730.7 and
44 39730.8 Health and Safety Code.

45 **§21590. CalRecycle—Joint Technical Document for Disposal Facilities.**

46 Any operator of a disposal site which is required to submit a RDSI, closure/postclosure maintenance plan,
47 and/or a ROWD or any other report that addresses similar regulatory concerns, may address those
48 requirements under one JTD. The JTD will be used in place of the RDSI only if it meets all the requirements set
49 forth in §21600 and lists where each requirement has been satisfied in the document in the form of a JTD
50 index, pursuant to (c).

51 (a) any operator of an existing facility who submits an application package to the EA, pursuant to §21570,
52 which proposes to change the facility's operations, or to change the SWFP shall do one of the following:

53 (1) Submit the updated information as an amendment to the existing JTD along with, a JTD index as
54 described in (c), referencing the new or updated information; or

55 (2) Submit a complete JTD as described in §21600 along with a JTD index as described in subsection c.
56
57
58

1 (b) any operator of a new facility that submits an application package to the EA pursuant to §21570, shall
2 submit a complete JTD pursuant to §21600, and an index of the topics addressed in the JTD to be used by the
3 EA as described in (c).

4 (c) the operator shall include with the JTD a copy of an index specifically for use by the EA. The page number
5 or the first line number within the JTD which addresses the topic shall be Noted next to that topic in the index.
6 The EA shall make available to the operator either in hard copy and/or ~~on magnetic media an~~ electronic copy a
7 JTD index listing, (Index found in Appendix 2) showing each topic which the JTD must address to provide the
8 EA with relevant facility information for writing or revising the facility permit.

9
10 **Note:**

11 Authority cited: Section 40002, 40502, 43020, and 42652.5 Public Resources Code.

12
13 Reference: Sections 40002, 40053, 40508, 42652.5, 42653, 42654, 43020, 43021, 43103, 44001-44017, 44100-
14 44101, 44500-44503 and 44813-44816, Public Resources Code; Sections 39730.5, 39730.6, 39730.7 and
15 39730.8 Health and Safety Code.

16
17
18 **Article 3: CIWMB CalRecycle—Enforcement Agency (EA) Requirements**

19
20 **§21650. CIWMB CalRecycle--EA Processing Requirements.**

21 (a) Upon its receipt, the EA shall stamp the application package with the date of receipt. The EA shall examine
22 the application package to determine whether it meets the requirements of §21570. If the EA finds the package
23 meets the requirements of §21570, the application package shall be accepted and stamped with the date of
24 acceptance. Notwithstanding any other provision of this division, the application package shall be deemed filed
25 on the date of acceptance.

26 (b) The EA shall either accept or reject the application package within thirty days of its receipt.

27 (c) Within five days of filing, the EA shall notify the ~~CIWMB CalRecycle~~, and the RWQCB if applicable, of its
28 determination. The EA shall submit as its notification to the ~~CIWMB CalRecycle~~ a copy of the accepted
29 application form. The EA shall also forward a copy of the application form to the RWQCB if applicable.

30 (d) If the EA determines that the application package does not meet the requirements of §21570, it shall reject
31 and not file the application, and it shall, within five days of determination, so notify the applicant, the ~~CIWMB~~
32 ~~CalRecycle~~, and the RWQCB if applicable, enumerating the grounds for rejection. The EA shall include in its
33 notification to the ~~CIWMB CalRecycle~~ a copy of the rejected application form. The application package,
34 together with the notice of rejection, shall be kept in the EA's file.

35 (e) After acceptance of an application for a new or revised full solid waste facilities permit as complete and
36 correct and within 60 days of receipt of the application by the EA, the EA shall notice and conduct an
37 informational meeting as required by §§21660.2 and 21660.3. For modified solid waste facilities permits, the
38 EA shall provide notice as required by §21660.3 after finding the permit application complete and correct and
39 within 60 days of receipt of the application by the EA.

40 (f) Upon request of the applicant, the EA may accept an incomplete application package. As a condition of
41 acceptance, the operator and the EA shall waive the statutory time limit contained in Public Resources Code
42 §44009. [Note: Section 21580 is the section for processing the applicant's waiver of timeframes and timing for
43 noticing and holding an informational meeting after the EA deems a previously submitted incomplete package
44 to be complete.] The EA shall notify the applicant within 30 days if the applicant's request for review under this
45 subsection has been accepted. If the application package does not conform with the requirements of §21570
46 within 180 days from the date of the EA agreeing to accept the package as incomplete the EA shall reject the
47 application package, pursuant to ¶(d). If the EA finds the application package meets the requirements of
48 §21570, the application package shall be accepted pursuant to ¶(c).

49 (g) No later than 60 days after the application package has been accepted as complete and correct and after
50 conducting an informational meeting if required by §§21660.2 and 21660.3, the EA shall mail to the ~~CIWMB~~
51 ~~CalRecycle~~ the following:

52 (1) A copy of the proposed solid waste facilities permit;

53 (2) The accepted application package;

54 (3) A certification from the EA that the solid waste facilities permit application package is complete and
55 correct, including a statement that the RFI meets the requirements of §21600, 14 CCR §§17863, 17863.4,
56 17346.5, 18221.6, 18223.5, or 18227.

57 (4) Documentation, if applicable, of the applicant's compliance with any RWQCB enforcement order or the
58 status of the applicant's WDRs, as described in Public Resources Code §44009;

1 (5) Any written public comments received on a pending application and a summary of comments received at
2 the informational meeting and, where applicable, responses to public comments and any other steps taken
3 by the EA relative to those comments. Subsequent to the transmittal of the proposed solid waste facilities
4 permit, the EA shall, within five (5) days of receipt, provide a copy of any additional written public comments
5 and response to comments to the CIWMB-CalRecycle.

6 (6) A solid waste facilities permit review report which has been prepared pursuant to §21675, within the last
7 five years.

8 (7) EA finding that the proposed solid waste facilities permit is consistent with and is supported by existing
9 CEQA analysis, or information regarding the progress toward CEQA compliance.

10 (h) At the time the EA submits the proposed solid waste facilities permit to the CIWMB-CalRecycle, the EA shall
11 submit a copy of the proposed solid waste facilities permit to the applicant, the RWQCB if applicable, and any
12 person so requesting in writing. The copy of the proposed solid waste facilities permit provided to the applicant
13 shall also be accompanied by a form for request for hearing, which the applicant may use to obtain a hearing
14 before a hearing panel or hearing officer to challenge any condition in the solid waste facilities permit. In cases
15 where a hearing panel or hearing officer may be requested, the EA shall notify the CIWMB-CalRecycle within
16 seven days of being noticed by the operator.

17 (i) The proposed solid waste facilities permit shall contain the EA's conditions. The proposed solid waste
18 facilities permit shall not contain conditions pertaining solely to air or water quality, nor shall the conditions
19 conflict with conditions from WDRs issued by the RWQCB.

20 [Note: The process to obtain a full solid waste facilities permit might not include the RWQCB if the facility is
21 other than a landfill or disposal site. Therefore, EA submittals of forms and documents to the RWQCB will be
22 made if applicable to the type of facility.

23 When writing conditions pursuant to 21650(i) the EA shall take into consideration PRC §44012, which requires
24 the EA to ensure that primary consideration is given to protecting public health and safety and preventing
25 environmental damage, and the long-term protection of the environment. The EA may also take into
26 consideration other permits, entitlements and approvals when writing terms and conditions (e.g., conditional
27 use permit, zoning, Air Pollution Control District/Air Quality Management District permits to construct and
28 operate, Department of Toxic Substances Control hazardous waste facility permit, Department of Fish and
29 Game permits, Coastal Commission approvals, Army Corps of Engineers permit, Federal Aviation
30 Administration notification, and other required local and county ordinances/permits)]

31 Note:

32 Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

33 Reference: Sections 43020, 43021, and 43000-45802, Public Resources Code.

34
35
36 **§21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications.**

37 (a) EA shall conduct an informational meeting for all new and revised full solid waste facilities permit
38 applications as determined by §21665. The EA shall hold an informational meeting on an application for a new
39 full solid waste facilities permit or an application for a full solid waste facilities permit revision required under
40 this article. The EA may require the operator(s) of the facility or facilities that are the subject of the informational
41 meeting to pay all costs incurred by the EA in connection with the meeting. The informational meeting may be
42 combined with another public meeting in which the EA participates that meets the criteria as specified in
43 §§21660.2(b) and 21660.2(c).

44 (b) The informational meeting shall be held after acceptance of the application package as complete and
45 correct by the EA and within 60 days of receipt of the application by the EA. The EA shall submit to the Board
46 CalRecycle a copy of the informational meeting notice at time of issuance. The Board-CalRecycle shall post the
47 notice on its web site as a way to further inform the public.

48 (c) The informational meeting shall meet the following criteria:

49 (1) The meeting shall be held in a suitable location not more than one (1) mile from the facility that is the
50 subject of the meeting and from any disadvantaged communities affected; if no suitable and available
51 location exists within one (1) mile of the facility and from any disadvantaged communities affected, as
52 determined by the EA, the EA may designate an alternative suitable location that is as close to the facility
53 disadvantaged communities as reasonably practical.

54 (A) The EA shall identify disadvantaged communities in a manner that meets or exceeds the methods of
55 the identification tools developed by the California Environmental Protection Agency pursuant to Section
56 39711 of the Health and Safety Code.

57 (2) The meeting shall be held on a day and at a time that the EA determines will enable attendance by
58 residents, including those of affected disadvantaged communities, living in the vicinity of the facility that is
59 the subject of the meeting.

(3) EAs ~~may~~ shall undertake additional measures to increase public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the meeting, ~~including which may include~~, but not be limited to, additional posting at the facility entrance, noticing beyond ~~300 feet~~ one (1) mile if the nearest residence or business is not within ~~300 feet~~ one (1) mile of the site, posting in a local newspaper of general circulation, and multilingual notice and translation and, multiple meeting dates, times and locations.

(d) The EA may substitute a previous public meeting or hearing for the requirements in this Section pursuant to §21660.4 if the applicant does not object.

Note:

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.

Reference: Sections 43103, 43213, 44004, and 44012, Public Resources Code.

Article 3.2. ~~CIWMB~~CalRecycle—Other Requirements

§21695. CalRecycle—Organic Disposal Reduction Status Impact Report

(a) Operators of a solid waste landfills shall submit a Status Impact Report (SIR) to CalRecycle that provides an analysis of the potential impacts to the landfill resulting from the implementation of the organic disposal reduction requirements of Public Resources Code, §42652.5.

(b) The SIR shall be prepared by a California registered civil engineer or certified engineering geologist.

(c) The SIR shall describe the potential impacts to the landfill including the expected timing of the impacts. The analysis shall include, but not be limited to, changes to the following:

(1) site development;

(2) waste types/volumes;

(3) daily and intermediate cover and beneficial use;

(4) volumetric capacity based on the disposal site experiencing a reduction of organic waste disposal of 50% by 2020 and 75% by 2025;

(5) waste handling methods;

(6) gas control and monitoring systems;

(7) gas generation;

(8) operation and closure design (individual cells and overall site geometry);

(9) final grading plan;

(10) site life estimate;

(11) ancillary facilities;

(12) cost estimates for closure and postclosure; and

(13) financial assurance mechanisms for closure, postclosure, and non-water corrective action requirements.

(d) The SIR shall be submitted to CalRecycle no later than 180 days from the effective date of this regulation.

(e) Within 30 days of receipt of a SIR, CalRecycle shall make a determination as to the completeness of the SIR based on the requirements of subdivision (b) and (c). If a SIR is determined to be incomplete, CalRecycle shall provide to the operator, in writing, the reasons for the determination.

(f) For a SIR determined to be incomplete, the operator shall submit a revised SIR addressing any enumerated deficiencies within 30 days of receipt of notice from CalRecycle of an incomplete SIR.

(g) Within 60 days of a determination, CalRecycle shall submit its findings to the EA regarding amendments, if any, to the Joint Technical Document as a result of the SIR. If amendments are required, the EA shall direct the operator to submit an updated Joint Technical Document including updated closure and postclosure maintenance plans that includes the information from the SIR.

(h) Within 120 days of being directed by the EA, the operator shall submit to the EA an updated Joint Technical Document including updated closure and postclosure maintenance plans that includes the information from the SIR.

Note:

Authority cited: Sections 40002, 40502, 42652.5, and 43020, Public Resources Code, and 39730.6 Health and Safety Code.

Reference: Section 43103 and 44015, 42652.5 Public Resources Code, and Sections 39730.5, 39730.6, 39730.7 and 39730.8 Health and Safety Code.

**SB 212 Informal Rulemaking Stakeholder Workshop #2
Draft Regulatory Concepts**

February 27, 2018, 1:00 PM – 5:00 PM *
Cal/EPA Building, Byron Sher Auditorium, 2nd Floor
1001 I Street, Sacramento, CA 95814

AGENDA

- I. Introduction and Housekeeping**
- II. Staff Presentation on Initial Draft Regulatory Concepts**
 - A. Article 4. Reports, Budgets, and Records**
 - B. Article 5. Financial Provisions**
 - C. Article 6. Enforcement**
 - D. Article 7. Miscellaneous Provisions**
- III. Stakeholder Comments and Questions**
- IV. Closing Remarks**

Future Workshops to Present Draft Regulatory Text

 - April/May Northern California
 - May/June Southern California

** Please note that CalRecycle may conclude this workshop earlier than the time indicated or announce a break during the workshop, depending on the number of stakeholder comments and questions.*

Public Comments are encouraged by 3/22/2019 to: PharmaSharps@CalRecycle.ca.gov

**Senate Bill 212 Pharmaceutical and Sharps Waste Stewardship Program
February 27, 2019 Informal Rulemaking Workshop #2
Articles 4-7**

Discussion Document

Governor Brown signed Senate Bill (SB) 212 (Jackson, Chapter 1004, Statutes of 2018) on September 30, 2018 to establish safe and convenient disposal options for home-generated pharmaceutical drug and sharps waste. CalRecycle is required to adopt regulations for the implementation of SB 212.

The purpose of this discussion document is to guide the department and stakeholders through the second informal rulemaking workshop focusing on Articles 4-7. CalRecycle will use the input provided from the January and February workshops to prepare draft regulatory text, which will be the focus of the spring/summer informal rulemaking workshops below. CalRecycle anticipates initiating formal rulemaking in the fall of 2019.

February 27, 2019 - Informal Rulemaking Workshop #2

- Article 4. Reports, Budgets, and Records
- Article 5. Financial Provisions
- Article 6. Enforcement
- Article 7. Miscellaneous Provisions

Future Workshops to Present Draft Regulatory Text

- April/May 2019 Northern California
- May/June 2019 Southern California

1. Article 4. Reports, Budgets, and Records

A. Initial Pharmaceutical and Sharps Waste Stewardship Organization Program Budget

42033. With the submission of a stewardship plan, a program operator shall submit to the department an initial stewardship program budget for the first five calendar years of operation of its stewardship program that includes both of the following:

- (a) Total anticipated revenues and costs of implementing the stewardship program.
- (b) A total recommended funding level sufficient to cover the plan's budgeted costs and to operate the stewardship program over a multiyear period.

Questions for Stakeholders

1. Should "budgeted costs" be clarified to include discrete cost categories such as collection, transportation, processing, disposal, capital costs, etc.?
 - a. If so, what cost categories should be included?
 - b. Should the budgeted costs anticipate the repeal of local ordinances during the first 5 years?

B. Annual Pharmaceutical and Sharps Waste Stewardship Organization Program Budget

42033.2(c) An annual program budget submitted pursuant to paragraph (2) of subdivision (a) shall include, at a minimum, both of the following for the upcoming calendar year:

- (1) An independent financial audit of the stewardship program, as required by subdivision (b) of Section 42033.4, funded by the stewardship organization from the charge paid from its member covered entities pursuant to Section 42034 or by a covered entity if it operates its own stewardship program.
- (2) Anticipated costs and the recommended funding level necessary to implement the stewardship program, including, but not limited to, costs to cover the stewardship plan's budgeted costs and to operate the stewardship program **over a multiyear period in a prudent and responsible manner.**

Questions for Stakeholders

1. Should "over a multiyear period in a prudent and responsible manner" be clarified?
2. What are characteristics of an annual budget that is operated in a "prudent and responsible manner"? E.g., Does "prudent" include a specific reserve level?

C. Pharmaceutical and Sharps Waste Stewardship Organization Annual Report

42033.2 (b) An annual report submitted pursuant to paragraph (1) of subdivision (a) shall include, at a minimum, all of the following for the prior year:

- (1) A list of covered entities participating in the stewardship organization.
- (2) The updated and reverified list provided pursuant to paragraph (2) of subdivision (a) of Section 42031 of covered products that each covered entity subject to the stewardship plan sells or offers for sale.
- (3) The amount, by weight, of covered products collected from ultimate users at each authorized collection site that is part of the stewardship program.
- (4) For a stewardship plan for covered drugs, the name and location of authorized collection sites at which covered drugs were collected.
- (5) For a stewardship plan for home-generated sharps waste, **information on the mail-back program.**
- (6) Whether policies and procedures for collecting, transporting, and disposing of covered products, as established in the stewardship plan, were followed during the reporting period and a description of each instance of noncompliance, if any occurred.
- (7) Whether any safety or security problems occurred during collection, transportation, or disposal of collected covered products during the reporting period and, if so, what changes have been or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security.
- (8) How the program operator complied with all elements in its stewardship plan.
- (9) Any **other information** the department reasonably requires.

Questions for Stakeholders - Pharmaceutical Stewardship Annual Reports

1. Regarding the requirement in 42033.2(b)(8), should compliance with all elements in the stewardship plan be clearly outlined/clarified in regulation? E.g.:

- a. Description of how the organization is progressing towards the convenience standard established in 42032.2(a)(1)(F)?
 - b. Description of comprehensive education and outreach plan? How many materials provided?
2. What "other information" should the department require?

Questions for Stakeholders - Sharps Stewardship Annual Reports

1. Regarding the requirement in 42033.2(b)(8), should compliance with all elements in the stewardship plan be clearly outlined/clarified in regulation? E.g.
 - a. Description of comprehensive education and outreach plan? How many materials provided?
2. What "information" on the mail-back program is necessary? E.g.:
 - a. Number and size of the many mail-back containers were provided and collected?
 - b. Return rates, including return rates for each type of distribution location (E.g., pharmacies, enforcement agencies, website/phone requests from the homeless, etc.)?
3. What "other information" should the department require?

D. Records

42033.4. (a) A program operator shall keep **minutes, books, and records** that clearly reflect the activities and transactions of the program operator's stewardship program.

(b) (1) The **minutes, books, and records** of a program operator shall be audited at the program operator's expense by an independent certified public accountant retained by the program operator at least once each calendar year.

(2) A program operator shall arrange for the independent certified public accountant audit to be delivered to the department, along with the annual report and program budget submitted pursuant to subdivision (a) of Section 42033.2.

Questions for Stakeholders

1. What is considered a "record"? What are "minutes"? What are examples?

E. Department Audit of Program Operator

42033.4(b)(3) The department may conduct its own audit of a program operator. The department shall review the independent certified public accountant audit for compliance with this chapter and consistency with the program operator's stewardship plan, annual report, and program budget submitted pursuant to this chapter. The department shall notify the program operator of any conduct or practice that does not comply with this chapter or of any inconsistencies identified in the department's audit. The program operator may obtain copies of the department's audit, including proprietary information contained in the department's audit, upon request. The department shall not disclose any confidential proprietary information protected pursuant to Section 42036.4 that is included in the department's audit.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety and to solicit comments from stakeholders that may consider clarifications necessary.

F. Local Jurisdiction Removal of Sharps Waste and Reimbursement

42033.5. For a local jurisdiction that requests removal of home-generated sharps waste or cost recovery or reimbursement for removal pursuant to Section 42032.2, the local jurisdiction shall provide information on home-generated sharps waste to the covered entity or program operator, within a reasonable time upon request by the covered entity or program operator.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety and to solicit comments from stakeholders that may consider clarifications necessary.

G. Department's Report and Analysis of Stewardship Organization Providing Adequate Access

42033.6. As part of the administration of this chapter, within 12 months of a program operator's submission of three consecutive complete annual reports submitted pursuant to Section 42033.2, the department shall develop, and post on its Internet Web site, a report analyzing whether the program operator's stewardship program provides adequate access to safe disposal of home-generated sharps waste or covered drugs, as applicable, to the ultimate user.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety and to solicit comments from stakeholders that may consider clarifications necessary.

2. Article 5. Financial Provisions

A. Administrative and Operational Costs Paid by Covered Entities

42034. In order to further the objective that covered entities establish and implement stewardship programs that comply with the requirements of this chapter, each covered entity, either individually or through a stewardship organization, shall pay all administrative and operational costs associated with establishing and implementing the stewardship program in which it participates, including the cost of collecting, transporting, and disposing of covered products.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety and to solicit comments from stakeholders that may consider clarifications necessary.

B. Administrative Fees Paid to the Department

42034.2. (a) (1) On or before the end of the 2022–23 fiscal year, and once every three months thereafter, a program operator shall pay to the department an administrative fee. The department shall set the fee at an amount that, when paid by every covered entity, is adequate to cover the department’s and any other state agency’s full costs of administering and enforcing this chapter. The total amount of fees collected shall not exceed the state’s actual and reasonable regulatory costs to implement and enforce this chapter. These costs may include the actual and reasonable costs associated with regulatory activities pursuant to this chapter before submission of stewardship plans pursuant to Section 42032.

(2) For a stewardship organization, the administrative fee paid pursuant to paragraph (1) shall be funded by the covered entities that make up the stewardship organization. This administrative fee shall be in addition to the charge paid pursuant to Section 42034. A stewardship organization may require its participating covered entities to pay the administrative fee and the charge paid pursuant to Section 42034 at the same time.

(b) The department shall deposit administrative fees paid by a program operator pursuant to subdivision (a) into the Pharmaceutical and Sharps Stewardship Fund, which is hereby established. Upon appropriation by the Legislature, moneys in the fund may be expended by the department, the state board, and any other agency that assists in the regulatory activities of administering and enforcing this chapter. Upon appropriation by the Legislature, moneys in the fund may be used for those regulatory activities and to reimburse any outstanding loans made from other funds used to finance the startup costs of the department’s activities pursuant to this chapter. Moneys in the fund shall not be expended for any purpose not enumerated in this chapter.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety.

C. Stewardship Organization Audit of Covered Entities

42034.4. (a) (1) A stewardship organization may conduct an audit of covered entities that are required to remit a charge or administrative fee to the stewardship organization pursuant to Sections 42034 and 42034.2 to verify that the administrative fees and charges paid are proper and accurate. In addition, a stewardship organization may conduct an audit of authorized collectors to verify the charges submitted are proper and accurate.

(2) The purpose of the audits described in paragraph (1) is to ensure parties required by this chapter to pay or collect an administrative fee or charge are paying or collecting the proper amount to implement the program.

(b) If a stewardship organization conducts an audit pursuant to subdivision (a), it shall do all of the following:

(1) Conduct the audit in accordance with generally accepted auditing practices.

(2) Limit the scope of the audit of covered entities to confirming whether a charge or administrative fee has been properly paid by the covered entities.

(3) Hire an independent third-party auditor to conduct the audit.

(4) Provide a copy of the audit to the department.

Questions for Stakeholders

1. When should a copy of the audit be provided to the department? Within a set amount of time? With the submittal of an annual report?

Article 6. Enforcement

42035.

(a) (1) On or before June 30, 2022, and at least annually thereafter, the department shall post on its Internet Web site a list of stewardship organizations, including entities with an approved stewardship plan, and covered entities, authorized collection sites, retail pharmacies, and retail pharmacy chains provided in the stewardship plans that are in compliance with this chapter.

(2) The state board shall coordinate with the department to verify that the list posted pursuant to paragraph (1) is consistent with the information submitted to each agency pursuant to Section 42031.

(b) A covered entity or stewardship organization that is not listed on the department's Internet Web site pursuant to subdivision (a), but demonstrates compliance with this chapter before the department is required to post the following year's list pursuant to subdivision (a), may request a certification letter from the department stating that the covered entity or stewardship organization is in compliance with this chapter. A covered entity or stewardship organization that receives a certification letter shall be deemed to be in compliance with this chapter.

(c) A **distributor or wholesaler** of covered products, and a pharmacy or other retailer that sells or offers for sale a covered product, shall **monitor the department's Internet Web site to determine** which covered entities and stewardship organizations are in compliance with this chapter. The distributor or wholesaler and the pharmacy or other retailer shall **notify the department** if it determines that a covered product that it sells or offers for sale is from a covered entity that is not listed on the department's Internet Web site.

Questions for Stakeholders Regarding Subsection 42035 (c)

1. What are reliable methods to verify a distributor or wholesaler has reviewed CalRecycle's website to determine a covered product is listed?

42035.2.

(a) (1) The department may **impose an administrative penalty** on any covered entity, program operator, stewardship organization, or authorized collector that sells, offers for sale, or provides a covered product in violation of this chapter.

(2) The amount of the administrative penalty imposed pursuant to this subdivision shall **not exceed ten thousand dollars (\$10,000) per day** unless the violation is **intentional, knowing, or reckless**, in which case the administrative penalty shall not exceed **fifty thousand dollars (\$50,000) per day**.

(b) The department shall **not impose a penalty** on a program operator pursuant to this section for failure to comply with this chapter if the program operator demonstrates it received false or misleading information that contributed to its failure to comply, including, for a stewardship organization, from a participating covered entity.

(c) The department shall deposit all penalties collected pursuant to this section in the Pharmaceutical and Sharps Stewardship Penalty Account, which is hereby created in the Pharmaceutical and Sharps Stewardship Fund established in Section 42034.2. Upon appropriation by the Legislature, moneys in the Pharmaceutical and Sharps Stewardship Penalty Account may be expended by the department on activities including, but not limited to, the promotion of safe handling and disposal of covered products, grants for related purposes, and the administration and enforcement this chapter.

Questions for Stakeholders Regarding Subsections 42035.2 (a)(1) and (a)(2)

1. Although it is very early on, using as an example the regulatory language CalRecycle has for other EPR programs we over see (Attachment A), are there specific criteria and/or factors CalRecycle should be considering as we work to develop penalties for this program?

(See Attachment A- Excerpts of California's existing regulatory EPR enforcement language related to Carpet, Mattresses and Paint)

42035.6.

(a) A covered entity, stewardship organization, program operator, retail pharmacy, or retail pharmacy chain shall do both of the following:

- (1) Upon request, provide the department with reasonable and timely access, as determined by the department, to its facilities and operations, as necessary to determine compliance with this chapter.
- (2) Upon request, provide the department with relevant records necessary to determine compliance with this chapter.

(b) A covered entity, stewardship organization, program operator, retail pharmacy, or retail pharmacy chain shall maintain and keep accessible all records required to be kept or submitted pursuant to this chapter for a minimum of three years.

(c) All reports and records provided to the department pursuant to this chapter shall be provided under penalty of perjury.

(d) The department may take disciplinary action against a covered entity, stewardship organization, program operator, pharmacy, retail pharmacy, or retail pharmacy chain that fails to provide the department with the access to information required pursuant to this section, including one or both of the following:

- (1) Imposing an administrative penalty pursuant to Section 42035.2.
- (2) Posting a notice on the department's Internet Web site, in association with the list that the department maintains pursuant to paragraph (1) of subdivision (a) of Section 42035, that the covered entity, stewardship organization, program operator, pharmacy, retail pharmacy, or retail pharmacy chain is no longer in compliance with this chapter.

(e) The department shall not prohibit as a disciplinary action a covered entity, stewardship organization, program operator, pharmacy, retail pharmacy, or retail pharmacy chain from selling a covered product.

Questions for Stakeholders Regarding Subsections 42035.6 (a) and (d)

1. What type of regulatory language or notices should be included in the development of the regulations to support CalRecycle's access to conducting inspections "behind the counter"?
2. Are there other oversight agencies with requirements for recordkeeping and access we need to consider as we develop regulations for this program?
3. What outreach will be needed to inform both the Pharmaceutical and Sharps industry regarding department Site Visits (both announced and unannounced)?

42035.8.

All handling, transport, and disposal undertaken as part of a stewardship program under this chapter shall comply with applicable state and federal laws, including, but not limited to, regulations adopted by the United States Drug Enforcement Administration.

Questions for Stakeholders Regarding Section 42035.8

1. There are various Federal (FDA, Fed. EPA) and State (BoP, DTSC, etc.) entities that provide regulatory oversight of both the pharmaceutical and sharps industries. What are aspects of their oversight that we need to be aware of so that we can look to incorporate consistency while also reducing redundancies?

3. Article 7. Miscellaneous Provisions

A. Preemption.

42036.2. (a) This chapter does not apply to a drug or sharp within a jurisdiction that is subject to a local stewardship program pursuant to an ordinance that took effect before April 18, 2018. If that ordinance is repealed in the jurisdiction or, if more than one ordinance is applicable, those ordinances are repealed in the jurisdiction, the drug or sharp shall be subject to this chapter in that jurisdiction within 270 days after the date on which the ordinance is, or ordinances are, repealed.

(b) This chapter shall preempt a local stewardship program for drugs or sharps enacted by an ordinance or ordinances with an effective date on or after April 18, 2018.

(c) A local stewardship program for covered products enacted by an ordinance that has an effective date before April 18, 2018, may continue in operation, but the program and its participants shall not receive or benefit from moneys from the Pharmaceutical and Sharps Stewardship Fund or the Pharmaceutical and Sharps Stewardship Penalty Account, including, but not limited to, for administrative or enforcement costs. Participants of a local stewardship program for covered products enacted by an ordinance that has an effective date before April 18, 2018, shall be eligible to participate in a stewardship program under this chapter and thereby become eligible to receive funds from the Pharmaceutical and Sharps Stewardship Fund or the Pharmaceutical and Sharps Stewardship Penalty Account only if the local stewardship program is dissolved.

The department does not currently suggest that this section requires clarification; it is included here for purposes of reviewing the article in its entirety and to solicit comments from stakeholders that may consider clarifications necessary.

Attachment A

**Pharmaceutical and Sharps Waste Stewardship Program
Informal Rulemaking Workshop #2**

Excerpts of California’s Existing Regulatory EPR Enforcement Language

Product Stewardship for Carpet, Title14 CCR, Division 7, Chapter 11

§ 18945. Civil Penalties.

A civil penalty may be administratively imposed by the department on any person who is in violation of any provision of this Article. The responsible party or parties shall be determined by the department based on the totality of the circumstances.

- (a) Any manufacturer offering carpet for sale or for promotional purposes in California or a manufacturer or stewardship organization submitting a plan or report to the department is subject to enforcement under this Article. Manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.
- (b) Notwithstanding paragraph (a), a product manufacturer is not subject to any penalty for failing to comply if that product manufacturer can demonstrate that it provided true and accurate information to the stewardship organization and the stewardship organization failed to properly report this on behalf of the manufacturer.
- (c) A stewardship organization is not subject to a penalty for failure to comply as a result of submitting false or misleading information if it can demonstrate that it received false or misleading information from a manufacturer that was the direct cause of its failure to comply with this Article.
- (d) Any wholesaler or retailer that offers carpet for sale in the state, or who offers carpet for promotional purposes in the state, is subject to enforcement under this Article.

§ 18945.1. Amount of Civil Penalties and Administrative Penalty Schedule.

- (a) Civil penalties may be imposed administratively in accordance with the following penalty tables:
 - (1) Base Penalty Table I is to be used for stewardship organizations and manufacturers.
 - (A) Identify what violations have occurred.
 - (B) Identify the severity of the violations.
 - (C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table I: For Stewardship Organizations and Manufacturers		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC 42972(a)	Failure to submit, individually or through a stewardship organization, a stewardship plan to the Department	Level 3
PRC 42973(b)	Failure to resubmit a stewardship plan within 60 days after receiving a notice of disapproval from the Department	Level 1

14 CCR 18942(b)(2)	Failure to resubmit a stewardship plan within 60 days after receiving a conditional approval from the Department	Level 1
PRC 42972(e)	Failure to notify the Department within 30 days after instituting a significant or material change to a Department-approved stewardship plan	Level 2
PRC 42975	Failure to meet the goals included in an organization's stewardship plan	Level 2
PRC 42976	Failure to submit, individually or through a stewardship organization, an annual report to the Department	Level 3
PRC 42976	Annual report does not contain required elements	Level 2
PRC 42977(a)	Failure to pay an annual administration fee to the Department	Level 3
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3
PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(2) Base Penalty Table II is to be used for wholesalers and retailers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Wholesalers and Retailers

<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3
PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(b) For the purpose of implementing this [Section/Article], penalty severity levels are described as follows:

- (1) For a violation classified as Level 1, the amount of the base penalty may be up to \$1,000 per day.
- (2) For a violation classified as Level 2, the amount of the base penalty may be up to \$5,000 per day.
- (3) For a violation classified as Level 3, the amount of the base penalty may be up to \$10,000 per day.

(c) The department will set the final penalty amount after considering the criteria set forth in Section 18945.2. The department may increase the final penalty beyond the penalty range established pursuant to paragraphs (a) and (b), if it determines, after considering the criteria set forth in Section 18945.2, that such an increase is warranted and appropriate.

§ 18945.2. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this chapter, the department or the court shall consider all the following:

- (a) The nature, circumstances, extent, and gravity of the violation(s).
- (b) The number and severity of the violation(s).
- (c) Evidence that the violation was intentional, knowing or negligent.
- (d) The size of the violator.
- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

§ 18945.3. Procedure for Imposing Civil Penalties.

- (a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code Section 11505(c).
- (b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:
 - (1) Personal service.
 - (2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure.
 - (3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the Department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For

respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at Section 11505(c) of the Government Code applies.

- (c) Civil penalties may be imposed pursuant to the Public Resources Code Section 42978 in the discretion of the trier of fact in the civil proceeding.

Used Mattresses Recovery and Recycling Act, 14 CCR, Division 7, Chapter 11

§ 18970. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this article, the department or the court shall consider the totality of the circumstances, which may include, but is not limited to, the following:

- (a) The nature, circumstances, extent, and gravity of the violation(s).
- (b) The number and severity of the violation(s).
- (c) Evidence that the violation was intentional, knowing, or negligent.
- (d) The size of the violator.
- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

§ 18971. Procedure for Imposing Civil Penalties.

- (a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Article 10 of Chapter 4.5 (commencing with section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:
 - (1) Personal service.
 - (2) Substitute service by using the same service procedures as described in section 415.20 of the Code of Civil Procedure.
 - (3) Certified Mail: For respondents who have submitted a mattress recycling plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) on file with the department. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a mattress recycling plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at subdivision (c) of section 11505 of the Government Code applies.

- (c) Civil penalties may be imposed pursuant to subdivision (a) of section 42993.1 of the Public Resources Code.

Architectural Paint Recovery Program, 14 CCR, Division 7, Chapter 11

§ 18955. Civil Penalties.

A civil penalty may be administratively imposed by the department on any person who is in violation of any provision of this Article. The responsible party or parties shall be determined by the department based on the totality of the circumstances.

- (a) Any manufacturer offering architectural paint for sale in California or a manufacturer or stewardship organization submitting a stewardship plan or annual report to the department is subject to enforcement under this Article. Architectural paint manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.
- (b) Notwithstanding paragraph (a), an architectural paint manufacturer is not subject to any penalty for failing to comply if that manufacturer can demonstrate that it provided true and accurate information to the stewardship organization and the stewardship organization failed to properly report this on behalf of the manufacturer.
- (c) A stewardship organization is not subject to a penalty for failure to comply as a result of submitting false or misleading information if it can demonstrate that it received false or misleading information from an architectural paint manufacturer that was the direct cause of its failure to comply with this Article.
- (d) Any manufacturer or retailer that offers architectural paint for sale in the state is subject to enforcement under this Article.

§ 18955.1. Amount of Civil Penalties and Administrative Penalty Schedule.

- (a) Civil penalties may be imposed administratively in accordance with the following penalty tables:

- (1) Base Penalty Table I is to be used for stewardship organizations and architectural paint manufacturers.
 - (A) Identify what violations have occurred.
 - (B) Identify the severity of the violations.
 - (C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table I:		
For Stewardship Organizations and Architectural Paint Manufacturers		
<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department-approved stewardship plan or listed as a compliant product on the department's website.	Level 3
PRC 48702(a) and 48703(a)	Failure to submit, individually or through a stewardship organization, an architectural paint stewardship plan to the department	Level 3

14 CCR 18952(b)(3)	Failure to resubmit a stewardship plan or provide supplemental information within 60 days after receiving a notice of disapproval or conditional approval from the department	Level 1
PRC 48704(c)	Failure to implement an architectural paint stewardship program described in a department- approved stewardship plan	Level 3
PRC 48704(e)	Failure to pay an annual administration fee to the department	Level 3
PRC 48705(a)	Failure to submit, individually or through a stewardship organization, an annual report to the department	Level 3
PRC 48705(a)	Annual report does not contain required elements	Level 2
14 CCR 18956	Failure to meet record keeping requirements	Level 2

- (2) Base Penalty Table II is to be used for retailers.
- (A) Identify what violations have occurred.
 - (B) Identify the severity of the violations.
 - (C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Retailers

<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC 48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department- approved stewardship plan or listed as a compliant product on the department's website.	Level 3
14 CCR 18956	Failure to meet record keeping requirements.	Level 2

- (b) For the purpose of implementing this Article, penalty severity levels are described as follows:
- (1) For a violation classified as Level 1, the amount of the base penalty may be up to \$1,000 per day.
 - (2) For a violation classified as Level 2, the amount of the base penalty may be up to \$5,000 per day.
 - (3) For a violation classified as Level 3, the amount of the base penalty may be up to \$10,000 per day.
- (c) A penalty amount may exceed \$1,000 per day only if a person intentionally, knowingly, or negligently violates this Article.
- (d) The department will set the final penalty amount after considering the criteria set forth in §18955.2. The department may increase the final penalty beyond the penalty range established pursuant to paragraphs (a) and (b), if it determines, after considering the criteria set forth in §18955.2, that such an increase is warranted and appropriate.

- (e) If the department sets an aggregated penalty amount for multiple violations, the aggregated penalty amount shall not exceed \$1,000 per day per manufacturer, stewardship organization, or retailer. If a person intentionally, knowingly, or negligently violates this Article, the aggregated penalty amount shall not exceed \$10,000 per day per manufacturer, stewardship organization, or retailer.

14 CCR § 18955.2

§ 18955.2. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this chapter, the department or the court shall consider all the following:

- (a) The nature, circumstances, extent, and gravity of the violation(s).
- (b) The number and severity of the violation(s).
- (c) Evidence that the violation was intentional, knowing, or negligent.
- (d) The size of the violator.
- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

14 CCR § 18955.3

§ 18955.3. Procedure for Imposing Civil Penalties.

- (a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with §11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code §11505(c).
- (b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:
 - (1) Personal service.
 - (2) Substitute service by using the same service procedures as described in §415.20 of the Code of Civil Procedure.
 - (3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at §11505(c) of the Government Code applies.
- (c) Civil penalties may be imposed pursuant to the Public Resources Code §48704(f) in the discretion of the trier of fact in the civil proceeding.

**Senate Bill 212 Pharmaceutical and Sharps Waste Stewardship Program
January 30, 2019 Informal Rulemaking Workshop #1**

Discussion Document

Governor Brown signed Senate Bill (SB) 212 (Jackson, Chapter 1004, Statutes of 2018) on September 30, 2018 to establish safe and convenient disposal options for home-generated pharmaceutical drug and sharps waste. CalRecycle is required to adopt regulations for the implementation of SB 212.

This document is intended to guide initial stakeholder discussion to solicit input regarding statutory terms and processes that should be defined and clarified through rulemaking within Articles 1-3. Text in a gray box contains the statutory reference and is followed by questions for stakeholder input. In some cases, examples of existing regulatory language is provided to guide discussion. A second informal rulemaking workshop will be held on February 27, 2019 to solicit stakeholder input on Articles 4-7. CalRecycle will use the input provided from the January and February workshops to prepare the draft regulatory text.

The outline below includes an initial list of statutorily-mandated elements that may need clarification:

January 30, 2019 - Informal Rulemaking Workshop #1

- Timeline
- Article 1. Definitions
- Article 2. Covered Entities and Stewardship Organizations
 - Submittal of Manufacturer Product Lists
 - Criteria for Determining Covered Entity
 - Education and Outreach
- Article 3. Stewardship Plans
 - Plan Submittal to Board, Department, et al
 - Requirements and Process for Plan Approval

February 27, 2019 - Informal Rulemaking Workshop #2

- Article 4. Reports, Budgets, and Records.
- Article 5. Financial Provisions
- Article 6. Enforcement
- Article 7. Miscellaneous Provisions

I. ARTICLE 1. DEFINITIONS

CalRecycle staff identified the following terms that may benefit from further clarification in regulations and have included some definitions from other Programs as examples. Additionally, terms that are not defined in statute are described within the context of the statutory citation where they are located.

- **Covered Entity:** § 42030.(f)(1)(A)–(E). See page 4

- **Administrative and Operational Costs:** § 42032.2.(a)(1)(D). Demonstrate adequate funding for all administrative and operational costs of the stewardship program, to be borne by participating covered entities.

Examples of existing related definitions include:

Used Mattress Recovery and Recycling Program 14 CCR § 18960(d): “Operational costs” means costs to operate a mattress recycling organization's mattress recycling program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs.

Architectural Paint Recovery Program 14 CCR § 18951(b): “Administrative fee” means the fee imposed by the department on the architectural paint manufacturer or stewardship organization in order to cover the costs of administering and enforcing the statute.

Product Stewardship for Carpets 14 CCR § 18941(b): “Administrative fee” means payments from the carpet assessment to the department that cover the costs of its administrative, oversight, and enforcement services necessary for manufacturers or stewardship organizations to effectively implement carpet stewardship plans. The administrative fee will be paid by the individual manufacturer or stewardship organizations submitting a stewardship plan.

- **Significant Change:** § 42032.(e). A program operator shall submit any significant changes to a stewardship plan in writing for approval by the department, and shall not implement the changes prior to that approval.

Example of an existing definition:

Used Mattress Recovery and Recycling Program 14 CCR § 18960(e): “Significant or material change” includes a change in a required element of the used mattress recovery and recycling plan that affects the organization's costs or revenues, such as a change that results in a modification of the recycling charge, a change that requires a party other than the mattress recycling organization to make a major change in how it participates in the program, or a change that reduces the goals set for the organization in the existing approved recycling plan.

- **Homebound:** § 42032.2.(a)(1)(G)(i). Permit an ultimate user who is a homeless, homebound, or disabled individual to request prepaid, preaddressed mailing envelopes, or an alternative form of a collection and disposal system, as described in paragraph (2) of subdivision (c), that would render the covered drug inert. A program operator shall accept that request through an Internet Web site and toll-free telephone number that it shall maintain to comply with the requests.

Example of an existing definition:

Medicare Definition of Homebound: Normally unable to leave home unassisted. To be homebound means that leaving home takes considerable and taxing effort. A person may leave home for medical treatment or short, infrequent absences for non-medical reasons, such as a trip to the barber or to attend religious service. A need for adult day care doesn't keep you from getting home health care.

- **Technically feasible:** § 42032.2.(a)(1)(G)(ii). Provide alternative methods of collection from ultimate users for any covered drugs, other than controlled substances, that cannot be accepted

or commingled with other covered drugs in secure collection receptacles or through a mail-back program, to the extent **technically feasible** and permissible under applicable state and federal law, including, but not limited to, United States Drug Enforcement Administration regulations.

- **Good faith negotiations:** § 42032.2.(b)(1). At least 120 days before submitting a stewardship plan to the department, the operator of a stewardship program for covered drugs shall notify potential authorized collectors in the county or counties in which it operates of the opportunity to serve as an authorized collector for the proposed stewardship program. If a potential authorized collector expresses interest in participating in a stewardship program, the program operator shall commence **good faith negotiations** with the potential authorized collector within 30 days.
- **Reasonable effort:** § 42032.2.(b)(2). A retail pharmacy shall make a **reasonable effort** to serve as an authorized collector as part of a stewardship program in the county in which it is located. If the minimum threshold described in clause (i) of subparagraph (F) of paragraph (1) of subdivision (a) is not met in each county in which a retail pharmacy chain has store locations, the retail pharmacy chain shall have at least one location or 15 percent of its store locations, whichever is greater, in that county serve as authorized collectors in a stewardship program.

Questions for Stakeholders

1. Are there other terms from Articles 1-3 that will need to be clarified and/or defined?
2. Are any of the examples provided here sufficient? Do you have revisions that would make any of the examples sufficient?
3. Do you have suggested example definitions?

II. PROPOSED REGULATORY SECTIONS (IN ADDITION TO DEFINITIONS)

Several elements of the law will require clarification and processes outlined in order for successful development, implementation, oversight, and enforcement of the pharmaceutical and sharps stewardship program(s). This will include clarifying the appropriate responsible entities and the roles and responsibilities of the oversight agencies, as well as the identified Stewardship Organizations.

A. Article 2. Covered Entities and Stewardship Organizations

1. Submittal of Covered Product Lists to the State Board of Pharmacy¹

§ 42031.(a)–(g): requires that covered entities submit a list of covered products to the Board of Pharmacy to be reviewed and verified, and outlines a process for manufacturers to appeal the determination that their product(s) be included in a Stewardship Plan.

Remarks to be made from Tom Lenox, Board of Pharmacy

¹ Submittal of Covered Products will not be part of the CalRecycle regulatory process but is included here as it is part of the overall statutory process.

2. Criteria for Determining a Covered Entity

§ 42030(f)(2). The department shall adopt regulations on the process for determining what entity is a covered entity following the priority order set forth in paragraph (1).

§ 42030(f)(1)(A)–(E) “Covered entity” means the manufacturer of covered products that are sold in or into the state.

(B) If no entity that meets the definition in subparagraph (A) is in the state, “covered entity” means the distributor of covered products that are sold in or into the state that is licensed as a wholesaler, as defined in Section 4043 of the Business and Professions Code, but **does not include a warehouse of a retail pharmacy chain that is licensed as a wholesaler if it engages only in intracompany transfers between any division, affiliate, subsidiary, parent, or other entity** under complete common ownership and control.

(C) If no entity that meets the definition in subparagraph (A) or (B) is in the state, “covered entity” means a repackager, as defined in Section 4044 of the Business and Professions Code, of covered products that are sold in or into the state.

(D) If no entity that meets the definition in subparagraph (A), (B), or (C) is in the state, “covered entity” means the owner or licensee of a trademark or brand under which covered products are sold in or into the state, regardless of whether the trademark is registered.

(E) If no entity that meets the definition in subparagraph (A), (B), (C), or (D) is in the state, “covered entity” means the importer of the covered products that are sold in or into the state.

Questions for Stakeholders

1. Are there terms within the tiered definition above that should be clarified?
2. Does this definition adequately address online sales?
3. Where do Reverse Distributors² fit in this process? Under what circumstances should a Reverse Distributor be considered a Manufacturer of covered drugs?
4. Where would a retail pharmacy chain that is also a “repackager³” of covered drugs fall within the tiered definition?

² Section 4043 of the Business and Professions Code - “Wholesaler” means and includes a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor, agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes possession of, any drug or device included in Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse, or authorize the storage or warehousing of drugs with any person or at any location not licensed by the board.

³ Section 4044 of the Business and Professions Code - “Repackager” means a person or entity that is registered with the federal Food and Drug Administration as a repackager and operates an establishment that packages finished drugs from bulk or that repackages dangerous drugs into different containers, excluding shipping containers.

3. Education and Outreach Program

§ 42031.6(a) A program operator shall conduct a **comprehensive education and outreach program** intended to promote participation in the stewardship program. At a minimum, the education and outreach program shall do all of the following:

- (1) Promote its stewardship program to ultimate users by providing signage for hospitals, pharmacies, and other locations, as necessary.
- (2) Provide educational and outreach materials for persons authorized to prescribe drugs, pharmacies, pharmacists, ultimate users, and others, as necessary.
- (3) Establish an Internet Web site that publicizes the location of authorized collectors and provides other information intended to promote the use of the stewardship program.
- (4) Prepare and provide **additional outreach materials not specified in this section**, as needed to promote the collection and proper management of covered drugs and home-generated sharps waste.
- (5) Encourage ultimate users to separate products that are not covered products from covered products, when appropriate, before submitting the covered products to an authorized collection site or mail-back program.

Questions for Stakeholders

1. Is any additional clarification to “comprehensive education and outreach program” needed?
2. What other outreach materials may be necessary? E.g., Media ads, bilingual materials, video, etc. Does this need to be specified in regulation?

B. Article 3. Stewardship Plans

Program operators are required to submit a complete stewardship plan to the Department within 6 months of the adoption of regulations (approx. 6/30/2021). The Department suggests the following eight processes related to Stewardship Plans require clarification in regulation:

1. Format of Submittal
2. Submittal of Proposed Pharmaceutical and Sharps Waste Stewardship Plan(s) to Board, and Other Applicable Agencies
3. Agency Determinations
4. Timeline for Resubmittal of Proposed Plans
5. Self-Certification that Plan Meets Applicable Laws and Regulations
6. Pharmaceutical and Sharps Waste Stewardship Plan Submittal to Department
7. Plan Requirements for Covered Drugs
8. Criteria for Plan Approval of Home-Generated Sharps Waste

1. Format of Submittal

§ 42032(a)(1) Within six months of the adoption date of regulations by the department pursuant to Section 42031.2, a program operator shall submit to the department for approval a complete stewardship plan that meets the requirements of Section 42032.2 for the establishment and implementation of a stewardship program, in a format determined by the department.

Example of format from Used Mattress Recovery and Recycling Program 14 CCR § 18961:

(a) A corporate officer, acting on behalf of a mattress recycling organization, shall submit as part of the used mattress recovery and recycling plan (plan) the following information:

(1) Contact information of the corporate officer responsible for submitting the plan to the department and for overseeing used mattress recycling program activities, including, but not limited to:

(A) Contact name

(B) Title

(C) Name of mattress recycling organization

(D) Mailing address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(2) List contact information for each manufacturer, renovator, and retailer the mattress recycling organization is composed of, including, but not limited to:

(A) Name of Company

(B) Mailing or corporate address

(C) Upon request by the department, the following information shall be provided, if available: individual Web address, contact name, title, phone number, and e-mail address of participating manufacturers, renovators, and retailers. The requested information shall be submitted within 30 days of the request unless extended as determined by the department.

(3) List of brands covered under the plan.

(4) Any changes to the information in subsections (1), (2), and (3) of subdivision (a) of this section shall be submitted to the department quarterly, or more frequently as the mattress recycling organization desires, according to instructions provided by the department.

(b) The plan may be submitted electronically according to instructions provided by the department. If the plan is submitted electronically, the date of electronic submittal will be considered the date of receipt by the department, provided that the organization also submits to the department a hard copy submittal letter referencing the plan electronic document with the signature of a corporate officer of a mattress recycling organization.

Questions for Stakeholders

1. Are there other elements that should be included in the format of the Plan submittal?
2. Are there formats from existing local ordinances that the department should consider?

2. Submittal of Proposed Pharmaceutical and Sharps Waste Stewardship Plan(s) to Board, and Other Applicable Agencies

§ 42032(b)(1) Prior to submittal of a plan to the Department, a program operator must submit its proposed plan to the Board, and to **any other applicable state agencies**.

Questions for Stakeholders

1. What other applicable agencies may have authority relative to the Plan?
 - a. Department of Public Health?
 - b. Department of Toxic Substance Control?
 - c. United States Drug Enforcement Administration?
 - d. Other Law Enforcement Agencies?

3. Agency Determinations

§ 42032(b)(2) An agency that receives a plan shall review the plan for compliance with state and federal laws and regulations related to the agency's respective authority. The agency shall determine compliance or noncompliance with those laws and regulations, and provide to the program operator that **determination** and an explanation for any finding of noncompliance, within 90 days of receipt of the plan.

Questions for Stakeholders

1. What information should be included in a determination and what is an acceptable form (e.g, a letter from the Director of the applicable agencies)?

4. Timeline for Resubmittal of Proposed Plans⁴

§ 42032(b)(3) A program operator may submit an updated proposed plan to an agency that issued a determination of noncompliance, and must include any determinations when it submits the plan to the CalRecycle.

Consideration for Stakeholders

1. CalRecycle observes that statute does not specify a timeline for the resubmittal of an updated proposed plan (e.g., 30 or 60 days) to an agency that issued a determination of noncompliance.

5. Program Operator Certification that Plan Meets Applicable Laws and Regulations

§ 42032(b)(4) If, 90 days after submitting a plan to an applicable agency, a program operator has not received a response from the applicable agency, the program operator may submit a **certification** to the department that the stewardship plan is consistent with all other applicable laws and regulations

Questions for Stakeholders

1. § 42032(b)(4) states that a program operator may submit a certification:

⁴ Timeline for resubmittal of proposed plans will not be part of the CalRecycle regulatory process but is included here as it is part of the overall statutory process.

- a. Should an entity other than the program operator issue the certification? If so, who should/could issue certifications?
2. What information should be included in a certification submitted by a Program Operator and what is an acceptable form (e.g, a letter, e-mail, etc.)?
 - a. What are specific laws and regulations that a plan may need to certify compliance with for pharmaceutical and sharps plans that may need to be included in the certification?
3. What happens if the department or Board determines that the certification was made in error and the plan is not applicable with another law or regulation?

6. Pharmaceutical and Sharps Waste Stewardship Plan Submittal to Department

a. Plan Completeness Process:

§ 42032(c)(1) The department shall determine if a stewardship plan is complete, including the determinations required pursuant to subdivision (b), and notify the submitting program operator within 30 days of receipt.

(2) If the department finds that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the plan set forth in subdivision (d) shall commence upon the original date of receipt.

(3) If the department determines the stewardship plan is incomplete, the department shall identify for the program operator the required additional information, and the program operator shall resubmit the plan within 30 days.

(4) If the department determines upon resubmission that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the plan shall commence upon the date of receipt of the resubmitted plan.

Questions for Stakeholders

1. Should there be a limit on how many times a plan can be returned for completeness deficiencies?

b. Plan Approval Process:

§ 42032(d)(1) The department shall review a complete submitted stewardship plan and shall approve, disapprove, or conditionally approve the plan within 90 days of receipt of the complete plan.

(2) The department may consult with, or submit a stewardship plan for review to, the state board or another state agency it determines is necessary to determine the completeness of the stewardship plan or for making a determination on the approval of the stewardship plan or an amendment to the stewardship plan. The duration of time that the department takes to review a stewardship plan pursuant to this paragraph shall not count toward the 90-day time limit specified in paragraph (1)

(e) A program operator shall submit any significant changes to a stewardship plan in writing for approval by the department, and shall not implement the changes prior to that approval.

(f) (1) If the department disapproves a submitted stewardship plan pursuant to subdivision (d), the department shall explain, in writing within 30 days, how the plan does not comply with this chapter, and the program operator shall resubmit a revised plan to the department.

(2) If the department finds that the revised stewardship plan submitted by the program operator does not comply with the requirements of this chapter and disapproves the plan, the covered entity operating its own stewardship program, or the stewardship organization and the covered entities that are members of the stewardship organization, are not in compliance with this chapter until the program operator submits a plan that the department approves.

The Department will have 90-days to determine if the Plan will be approved, conditionally approved, or disapproved.

Examples of process and timing for the department to make similar determinations under the Mattress and Paint Stewardship Programs:

Used Mattress Recovery and Recycling Program 14 CCR § 18962(d) If the department conditionally approves a plan, the department shall identify the deficiencies in the plan and the mattress recycling organization shall comply with the conditions of approval within not less than 60 days or as determined by the director of the notice date. If the conditions are met, the department shall approve the plan.

(e) If the department conditionally approves a plan and the conditions are not met, the department shall disapprove the plan.

(f) If the department disapproves a plan, the department shall identify the deficiencies in the plan and the mattress recycling organization shall resubmit a plan or provide supplemental information requested within not less than 60 days of the notice date or as determined by the director.

(g) The mattress recycling plan shall be submitted for re-approval upon any significant or material change, as defined. The department shall review the revised plan within 90 days of receipt. The department may approve, disapprove, or conditionally approve the revised plan. The department may also require the mattress recycling organization to resubmit a revised mattress recycling budget if there is a significant or material change, as defined.

Architectural Paint Recovery Program 14 CCR § 18953(B) If the department conditionally approves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall comply with the conditions of approval within 60 days of the notice date. If the conditions are met, the department shall approve the plan.

(C) If the department disapproves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall resubmit a plan or provide supplemental information requested by within 60 days of the notice date.

(D) If the department conditionally approves a plan and the conditions are not met, the department shall disapprove the plan.

(4) The stewardship plan must be submitted for re-approval upon any significant or material change, as defined. The department shall review the revised stewardship plan within 90 days of receipt and make a determination whether or not to approve the plan.

Questions for Stakeholders

1. Additionally, CalRecycle observes the need for a timeline and process for resubmittal following conditional approval or disapproval for a stewardship plan, similar to the examples provided above.
 - a. Are the example(s) above a good basis for the plan approval and process timelines in § 42032(d)(1)?
2. Do you have revisions that would improve either of the examples?
3. Do you have another suggested approach for the plan approval timelines?

7. **Plan Requirements for Covered Drugs.** In order to be approved, the stewardship plan for covered drugs must adequately address all of the following elements:

§ 42032.2.(a)(1)

(A) Identify and provide contact information for the stewardship organization, if applicable, and each participating covered entity, and identify each covered drug sold or offered for sale by each participating covered entity.

(B) Identify and provide contact information for the authorized collectors for the stewardship program, as well as the reasons for excluding any potential authorized collectors from participation in the program.

(C) Include any determinations provided by a state agency pursuant to subdivision (b) of Section 42032. Any determination of noncompliance shall be accompanied by a superseding determination of compliance.

(D) Demonstrate **adequate funding for all administrative and operational costs** of the stewardship program, to be borne by participating covered entities.

(E) Provide for a handling, transport, and disposal system that complies with applicable state and federal laws, including, but not limited to, regulations adopted by the United States Drug Enforcement Administration.

(F) Provide for a collection system that complies with the requirements of this chapter and meets all of the following requirements for authorized collection sites in each county in which the plan will be implemented:

(i) Provides for a minimum of five authorized collection sites or one authorized collection site per 50,000 people, whichever is greater.

(ii) Provides for a reasonable geographic spread of authorized collection sites and an explanation for the geographic spread.

(iii) Provides for a mail-back program covering any counties where there is not an authorized retail pharmacy operating as an authorized collection site.

(G) Require a program operator to do all of the following:

(i) Permit an ultimate user who is a homeless, **homebound**, or disabled individual to request prepaid, preaddressed mailing envelopes, or an alternative form of a collection and disposal system, as described in paragraph (2) of subdivision (c), that would render the covered drug inert. A program operator shall accept that request through an Internet Web site and toll-free telephone number that it shall maintain to comply with the requests.

(ii) Provide **alternative methods** of collection from ultimate users for any covered drugs, other than controlled substances, that **cannot be accepted or commingled with other covered drugs** in secure collection receptacles or through a mail-back program, to the extent **technically feasible** and permissible under applicable state and federal law, including, but not limited to, United States Drug Enforcement Administration regulations.

(iii) (I) Provide a service schedule that meets the needs of each authorized collection site to ensure that each secure collection receptacle is serviced as often as necessary to avoid reaching capacity and that collected covered drugs are transported to final disposal in a timely manner. Additionally, a receipt or collection manifest shall be left with the authorized collection site to support verification of the service. The authorized collection site shall maintain and make available to the department this documentation.

(II) An authorized collector shall comply with applicable federal and state laws regarding collection and transportation standards, and the handling of covered drugs, including United States Drug Enforcement Administration regulations.

(H) Provide the policies and procedures for the safe and secure collection, transporting, and disposing of the covered drug, describe how and where records will be maintained and how, at a minimum, instances of security problems that occur will be addressed, and explain the processes that will be taken to change the policies, procedures, and tracking mechanisms to alleviate the problems and to improve safety and security.

§ 42032.2(e) A stewardship plan shall include provisions to expand into jurisdictions not included in the stewardship plan pursuant to Section 42036.2, in the event a jurisdiction repeals its local stewardship program ordinance.

(f) A stewardship plan shall include educational and outreach provisions to meet the requirements of Section 42031.6.

Questions for Stakeholders:

1. How will the stewardship organization identify which drugs cannot be accepted or commingled with other covered drugs?
 - a. Should the process used to conduct this analysis be included in a stewardship plan?
2. Does the term “technically feasible” need to be further defined?
3. What are examples of when an alternative method would be necessary?
 - a. How many alternative methods of collection should be provided?
4. Regarding § 42032.2(e):
 - a. What provisions are necessary to consider for expansion into a jurisdiction in the event the ordinance is repealed?

a. Authorized Collectors

§ 42032.2(b)(1) At least 120 days before submitting a stewardship plan to the department, the operator of a stewardship program for covered drugs shall notify potential authorized collectors in the county or counties in which it operates of the opportunity to serve as an authorized collector for the proposed stewardship program. If a potential authorized collector expresses interest in participating in a stewardship program, the program operator shall commence **good faith negotiations** with the potential authorized collector within 30 days.

(2) A retail pharmacy shall make a **reasonable effort** to serve as an authorized collector as part of a stewardship program in the county in which it is located. If the minimum threshold described in clause (i) of subparagraph (F) of paragraph (1) of subdivision (a) is not met in each county in which a retail pharmacy chain has store locations, the retail pharmacy chain shall have at least one location or 15 percent of its store locations, whichever is greater, in that county serve as authorized collectors in a stewardship program.

Questions for Stakeholders

1. What form of documentation should be submitted to demonstrate “good faith” and “reasonable effort?”

8. **Plan Requirements for Home-Generated Sharps Waste.** In order to be approved, the stewardship plan for covered sharps must adequately address all of the following elements:

§ 42032.2(d)(1)

(A) Identify and provide contact information for the stewardship organization, if applicable, and each participating covered entity, and identify each covered product sold or offered for sale by each participating covered entity.

(B) Include any determinations provided by a state agency pursuant to subdivision (b) of Section 42032. Any determination of noncompliance shall be accompanied by a superseding determination of compliance.

(C) Demonstrate **adequate funding** for all administrative and operational costs of the stewardship program, to be borne by participating covered entities.

(D) Provide for a handling, transport, and disposal system, at no cost to the ultimate user, that complies with applicable state and federal laws.

(E) Maintain an Internet Web site and toll-free telephone number for purposes of providing information on the program, including disposal options, and to receive requests for sharps waste containers from ultimate users.

(F) Provide that a stewardship program for home-generated sharps waste shall be a mail-back program for home-generated sharps waste that complies with this chapter and that meets all the following requirements:

(i) The program provides or initiates distribution of a sharps waste container and mail-back materials at the point of sale, **to the extent allowable by law**. Containers and mail-back materials shall be provided at no cost to the ultimate user. The program operator shall select and distribute a container and mail-back materials sufficient to accommodate the volume of sharps purchased by an ultimate user over a **selected time period**.

(I) For any sharps, the packaging, an insert or instructions, or separate information provided to the ultimate user shall include information on proper sharps waste disposal.

(II) All sharps waste containers shall include on a label affixed to the container or packaging, or on a separate insert included in the container or packaging, the program operator's Internet Web site and toll-free telephone number.

(III) All sharps waste containers shall include prepaid postage affixed to the container or to the mail-back packaging.

(ii) Upon request, the program provides for **reimbursement to local agencies for disposal costs** related to home-generated sharps waste, unless the program operator provides for the removal of the home-generated sharps waste from the local household hazardous waste facility.

(I) A local agency shall not knowingly request reimbursement for disposal expenses pursuant to this subparagraph for disposal costs resulting from a municipal needle exchange program or a medical waste generator.

(II) Reimbursement costs shall be limited to the actual costs of transportation from the household hazardous waste facility and for the actual costs of disposal.

(III) A request for reimbursement pursuant to this clause shall be submitted with a declaration under penalty of perjury that the local agency has not knowingly requested reimbursement for expenses prohibited by this section.

(IV) A cost is eligible for reimbursement pursuant to this clause if the cost is incurred 270 days or more after the approval of a stewardship plan for home-generated sharps waste.

(2) Paragraph (1) shall apply only with regard to home-generated sharps waste.

§ 42032.2(e) A stewardship plan shall include **provisions to expand** into jurisdictions not included in the stewardship plan pursuant to Section 42036.2, in the event a jurisdiction repeals its local stewardship program ordinance.

(f) A stewardship plan shall include educational and outreach provisions to meet the requirements of Section 42031.6.

Questions for Stakeholders:

1. Regarding § 42032.2(d)(1)(F)(i):
 - a. What are examples of when mail-back materials would not be permitted under the law?
 - b. Is clarification needed regarding container volumes and corresponding “sufficient time periods”?
2. Regarding § 42032.2(e):
 - a. What provisions are necessary to consider for expansion into a jurisdiction in the event the ordinance is repealed (note: this question applies to both pharmaceutical and sharps plans)?

a. Reimbursement of Costs to Local Jurisdictions

§ 42032.2(d)(1)(F)(ii) Upon request, the program provides for **reimbursement to local agencies for disposal costs** related to home-generated sharps waste, unless the program operator provides for the removal of the home-generated sharps waste from the local household hazardous waste facility.

(I) A local agency shall not knowingly request reimbursement for disposal expenses pursuant to this subparagraph for disposal costs resulting from a municipal needle exchange program or a medical waste generator.

(II) Reimbursement costs shall be limited to the actual costs of transportation from the household hazardous waste facility and for the actual costs of disposal.

(III) A request for reimbursement pursuant to this clause shall be submitted with a declaration under penalty of perjury that the local agency has not knowingly requested reimbursement for expenses prohibited by this section.

(IV) A cost is eligible for reimbursement pursuant to this clause if the cost is incurred 270 days or more after the approval of a stewardship plan for home-generated sharps waste.

Questions for Stakeholders

1. Do any of the processes here require clarification in regulation or should the Department require the Stewardship Organization to establish reimbursement requirements in its Plan? E.g., How often should a request for reimbursement be allowed? Monthly? Quarterly? What information needs to be included in the reimbursement request?
2. What services must the program offer to provide to remove home-generated sharps waste from a household hazardous waste facility?

SB 212 Informal Rulemaking Public Workshop #1: Articles 1-3

*CalRecycle Public Workshop
January 30, 2019*



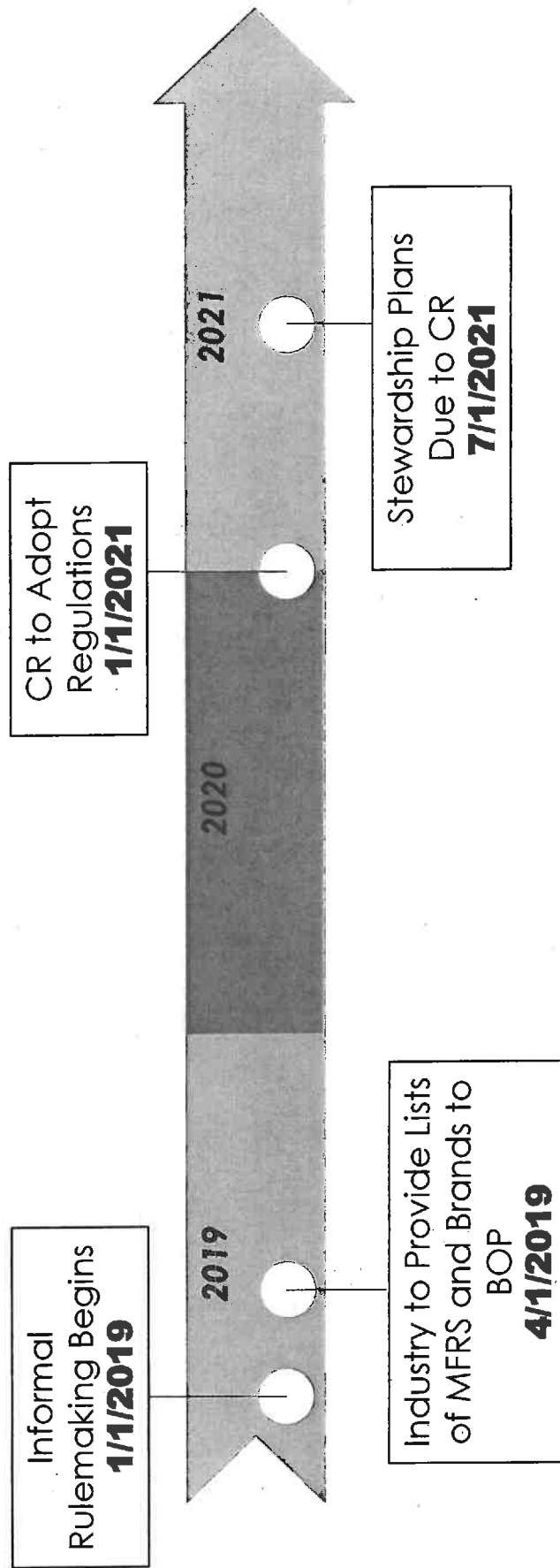
Introduction

By Howard Levenson, Ph.D.
Deputy Director, Materials Management &
Local Assistance Division

Purpose of Rulemaking

- Clarify statute
- Establish administrative procedures
- Provide a level playing field by establishing consistent standards

SB 212 Implementation Timeline



CR – CalRecycle SO – Stewardship Organization
BOP – Board of Pharmacy

SB 212 Implementation Timeline

SO to provide CR
1st Annual Report
3/31/2022



Stewardship Plans
Due to CR
7/1/2021

CR Sets Administrative
Fee for Agencies'
Costs by **FY 2022/23**

CR – CalRecycle
BOP – Board of Pharmacy

SO – Stewardship Organization

Key Components of SB 212

- Industry-operated and funded collection & disposal programs
- Stewardship Plans
- Minimum Convenience Standards
- Annual Budgets
- Annual Reports

Outline of Draft Regulatory Concepts

- I. Article 1. Definitions**
- II. Article 2. Covered Entities and Stewardship Organizations**
- III. Article 3. Stewardship Plans**
- IV. Article 4. Reports, Budgets, and Records**
- V. Article 5. Financial Provisions**
- VI. Article 6. Enforcement**
- VII. Article 7. Miscellaneous Provisions**

Outline of Draft Regulatory Concepts

I. Article 1. Definitions

II. Article 2. Covered Entities and Stewardship Organizations

- Submittal of Manufacturer Product Lists
- Criteria for Determining Covered Entity
- Education and Outreach

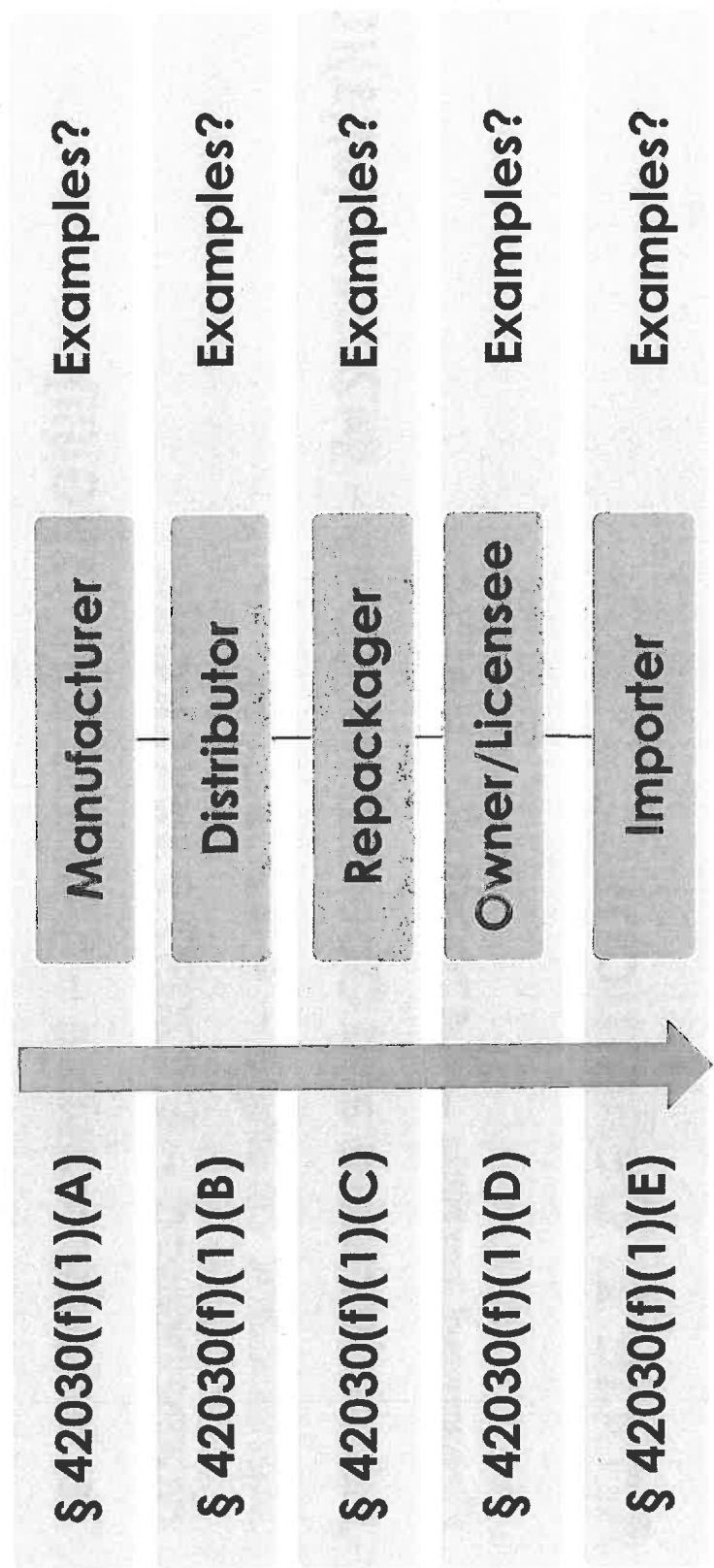
III. Article 3. Stewardship Plans

- Plan Submittal to Board, Department, et al
- Requirements and Process for Plan Approval

Article 1. Definitions

- Covered entity – §42030.(f)(1)(A)-(E)
- Administrative and Operational Costs – §42032.2.(a)(1)(D)
- Significant change – § 42032.(e)
- Homebound – § 42032.2.(a)(1)(G)(i)
- Technically feasible – § 42032.2.(a)(1)(G)(ii)
- Good faith negotiations – § 42032.2.(b)(1)
- Reasonable effort – § 42032.2.(b)(2)

Covered Entity Definition – §42030.(f)(1)(A)-(E)



§ 42030(f)(1)(A)-(E) “Covered entity” means the manufacturer of covered products that are sold in or into the state.

(B) If no entity that meets the definition in subparagraph (A) is in the state, “covered entity” means the distributor of covered products that are sold in or into the state that is licensed as a wholesaler, as defined in Section 4043 of the Business and Professions Code, but **does not include a warehouse of a retail pharmacy chain that is licensed as a wholesaler if it engages only in intracompany transfers between any division, affiliate, subsidiary, parent, or other entity** under complete common ownership and control.

(C) If no entity that meets the definition in subparagraph (A) or (B) is in the state, “covered entity” means a repackager, as defined in Section 4044 of the Business and Professions Code, of covered products that are sold in or into the state.

(D) If no entity that meets the definition in subparagraph (A), (B), or (C) is in the state, “covered entity” means the owner or licensee of a trademark or brand under which covered products are sold in or into the state, regardless of whether the trademark is registered.

(E) If no entity that meets the definition in subparagraph (A), (B), (C), or (D) is in the state, “covered entity” means the importer of the covered products that are sold in or into the state.

11

Administrative and Operational Costs §42032.2.(a)(1)(D)

Demonstrate adequate funding for all administrative and operational costs of the stewardship program, to be borne by participating covered entities.

Administrative and Operational Costs: Examples

Used Mattress Recovery and Recycling Program 14 CCR § 18960(d): “Operational costs” means costs to operate a mattress recycling organization's mattress recycling program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs.

Architectural Paint Recovery Program 14 CCR § 18951(b): “Administrative fee” means the fee imposed by the department on the architectural paint manufacturer or stewardship organization in order to cover the costs of administering and enforcing the statute.

Product Stewardship for Carpets 14 CCR § 18941(b): “Administrative fee” means payments from the carpet assessment to the department that cover the costs of its administrative, oversight, and enforcement services necessary for manufacturers or stewardship organizations to effectively implement carpet stewardship plans. The administrative fee will be paid by the individual manufacturer or stewardship organizations submitting a stewardship plan.

Significant Change § 42032.(e)

A program operator shall submit any significant changes to a stewardship plan in writing for approval by the department, and shall not implement the changes prior to that approval.

Significant Change § 42032.(e)

Example:

Used Mattress Recovery and Recycling Program 14 CCR § 18960(e):

“**Significant or material change**” includes a change in a required element of the used mattress recovery and recycling plan that affects the organization's costs or revenues, such as a change that results in a modification of the recycling charge, a change that requires a party other than the mattress recycling organization to make a major change in how it participates in the program, or a change that reduces the goals set for the organization in the existing approved recycling plan.

Homebound § 42032.2.(a)(1)(G)(i)

Permit an ultimate user who is a homeless, homebound, or disabled individual to request prepaid, preaddressed mailing envelopes, or an alternative form of a collection and disposal system, as described in paragraph (2) of subdivision (c), that would render the covered drug inert. A program operator shall accept that request through an Internet Web site and toll-free telephone number that it shall maintain to comply with the requests.

Homebound § 42032.2.(a)(1)(G)(i)

Example of an existing definition:

Medicare Definition of Homebound: Normally unable to leave home unassisted. To be homebound means that leaving home takes considerable and taxing effort. A person may leave home for medical treatment or short, infrequent absences for non-medical reasons, such as a trip to the barber or to attend religious service. A need for adult day care doesn't keep you from getting home health care.

Technically feasible § 42032.2.(a)(1)(G)(ii)

Provide alternative methods of collection from ultimate users for any covered drugs, other than controlled substances, that cannot be accepted or commingled with other covered drugs in secure collection receptacles or through a mail-back program, to the extent **technically feasible** and permissible under applicable state and federal law, including, but not limited to, United States Drug Enforcement Administration regulations.

Good faith negotiations § 42032.2.(b)(1)

At least 120 days before submitting a stewardship plan to the department, the operator of a stewardship program for covered drugs shall notify potential authorized collectors in the county or counties in which it operates of the opportunity to serve as an authorized collector for the proposed stewardship program. If a potential authorized collector expresses interest in participating in a stewardship program, the program operator shall commence **good faith negotiations** with the potential authorized collector within 30 days.

Reasonable effort: § 42032.2.(b)(2)

A retail pharmacy shall make a **reasonable effort** to serve as an authorized collector as part of a stewardship program in the county in which it is located. If the minimum threshold described in clause (i) of subparagraph (F) of paragraph (1) of subdivision (a) is not met in each county in which a retail pharmacy chain has store locations, the retail pharmacy chain shall have at least one location or 15 percent of its store locations, whichever is greater, in that county serve as authorized collectors in a stewardship program.

Questions for Stakeholders

1. Are there other terms from Articles 1-3 that will need to be clarified and/or defined?
2. Regarding “covered entity,” are there terms within the tiered definition that should be clarified?
3. Are any of the examples provided here sufficient? Do you have revisions that would make any of the examples sufficient?
4. Do you have suggested example definitions?

Article 2. Covered Entities and Stewardship Organizations

1. Submittal of Manufacturer Product Lists
2. Criteria for Determining Covered Entity
3. Education and Outreach

1. Submittal of Covered Product Lists to the State Board of Pharmacy

§ 42031.(a)–(g): requires that covered entities submit a list of covered products to the Board of Pharmacy to be reviewed and verified, and outlines a process for manufacturers to appeal the determination that their product(s) be included in a Stewardship Plan.

(Submittal of Covered Products will not be part of the CalRecycle regulatory process but is included here as it is part of the overall statutory process.)

2. Criteria for Determining a Covered Entity

§ 42030(f)(2). The department shall adopt regulations on the process for determining what entity is a covered entity following the priority order set forth in paragraph 1.

Questions for Stakeholders

1. Where do online sales fit in this process?
2. Where do Reverse Distributors fit in this process? Under what circumstances should a Reverse Distributor be considered a Manufacturer of covered drugs?
3. Where would a retail pharmacy chain that is also a “repackager” of covered drugs fall within the tiered definition?

3. Education and Outreach Program

§ 42031.6(a) A program operator shall conduct a comprehensive education and outreach program intended to promote participation in the stewardship program. At a minimum, the education and outreach program shall do all of the following:

- (1) Promote its stewardship program to ultimate users by providing signage for hospitals, pharmacies, and other locations, as necessary.**
- (2) Provide educational and outreach materials for persons authorized to prescribe drugs, pharmacies, pharmacists, ultimate users, and others, as necessary.**
- (3) Establish an Internet Web site that publicizes the location of authorized collectors and provides other information intended to promote the use of the stewardship program.**
- (4) Prepare and provide additional outreach materials not specified in this section, as needed to promote the collection and proper management of covered drugs and home-generated sharps waste.**
- (5) Encourage ultimate users to separate products that are not covered products from covered products, when appropriate, before submitting the covered products to an authorized collection site or mail-back program.**

Questions for Stakeholders

1. Is any additional clarification to “comprehensive education and outreach program” needed?
2. What other outreach materials may be necessary? E.g., Media ads, bilingual materials, video, etc. Does this need to be specified in regulation?

Article 3. Stewardship Plans

The Department suggests the following eight processes related to Stewardship Plans require clarification in regulation:

1. Format of Submittal
2. Submittal of Proposed Pharmaceutical and Sharps Waste Stewardship Plan(s) to Board, and Other Applicable Agencies
3. Agency Determinations
4. Timeline for Resubmittal of Proposed Plans
5. Certification that Plan Meets Applicable Laws and Regulations
6. Pharmaceutical and Sharps Waste Stewardship Plan Submittal to Dept
7. Plan Requirements for Covered Drugs
8. Criteria for Plan Approval of Home-Generated Sharps Waste

1. Format of Submittal

§ 42032(a)(1) Within six months of the adoption date of regulations by the department pursuant to Section 42031.2, a program operator shall submit to the department for approval a complete stewardship plan that meets the requirements of Section 42032.2 for the establishment and implementation of a stewardship program, **in a format determined by the department.**

Example of format from Used Mattress Recovery and Recycling Program 14 CCR § 18961:

- Format requirements from the Mattress Stewardship Program Regulations include:
 - Name of stewardship organization
 - Contact information for each manufacturer (e.g., name and mailing address, Web address, etc.)
 - Electronic submittal, accompanied by a hard copy submittal letter with signature
 - Other information, upon request from the department, including contact information for all participating stewardship organization members

Questions for Stakeholders

1. Are there other elements that should be included in the format of the Plan submittal?
2. Are there formats from existing local ordinances that the department should consider?

2. Submittal of Proposed Pharmaceutical and Sharps Waste Stewardship Plan(s) to Board, and Other Applicable Agencies

§ 42032(b)(1) Prior to submittal of a plan to the Department, a program operator must submit its proposed plan to the Board, and to **any other applicable state agencies.**

Questions for Stakeholders

1. What other applicable agencies may have authority relative to the Plan?
 - a. Department of Public Health?
 - b. Department of Toxic Substance Control?
 - c. United States Drug Enforcement Administration?
 - d. Other Law Enforcement Agencies?

3. Agency Determinations

§ 42032(b)(2) An agency that receives a plan shall review the plan for compliance with state and federal laws and regulations related to the agency's respective authority. The agency shall determine compliance or noncompliance with those laws and regulations, and provide to the program operator that **determination** and an explanation for any finding of noncompliance, within 90 days of receipt of the plan.

Questions for Stakeholders

1. What information should be included in a determination and what is an acceptable form (e.g, a letter from the Director of the applicable agencies)?

4. Timeline for Resubmittal of Proposed Plans

§ 42032(b)(3) A program operator may submit an updated proposed plan to an agency that issued a determination of noncompliance, and must include any determinations when it submits the plan to the CalRecycle.

5. Program Operator Certification that Plan Meets Applicable Laws and Regulations

§ 42032(b)(4) If, 90 days after submitting a plan to an applicable agency, a program operator has not received a response from the applicable agency, the program operator may submit **a certification** to the department that the stewardship plan is consistent with all other applicable laws and regulations.

Questions for Stakeholders

1. § 42032(b)(4) states that a program operator may submit a certification:
 - a. Should an entity other than the program operator issue the certification? If so, who should/could issue certifications?

Questions for Stakeholders, cont'd.

2. What information should be included in a certification submitted by a Program Operator and what is an acceptable form (e.g, a letter, e-mail, etc.)?
 - a. What are specific laws and regulations that a plan may need to certify compliance with for pharmaceutical and sharps plans that may need to be included in the certification?
3. What happens if the department or Board determines that the certification was made in error and the plan is not applicable with another law or regulation?

6. Pharmaceutical and Sharps Waste Stewardship Plan Submittal to Department

- § 42032(c)(1)** The department shall determine if a stewardship plan is complete, including the determinations required pursuant to subdivision (b), and notify the submitting program operator within 30 days of receipt.
- (2) If the department finds that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the plan set forth in subdivision (d) shall commence upon the original date of receipt.
- (3) If the department determines the stewardship plan is incomplete, the department shall identify for the program operator the required additional information, and the program operator shall resubmit the plan within 30 days.
- (4) If the department determines upon resubmission that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the plan shall commence upon the date of receipt of the resubmitted plan.

Questions for Stakeholders

1. Should there be a limit on how many times a plan can be returned for completeness deficiencies?

6.b. Plan Approval Process

- § 42032(d)(1)** The department shall review a complete submitted stewardship plan and shall approve, disapprove, or conditionally approve the plan within 90 days of receipt of the complete plan.
- (2) The department may consult with, or submit a stewardship plan for review to, the state board or another state agency it determines is necessary to determine the completeness of the stewardship plan or for making a determination on the approval of the stewardship plan or an amendment to the stewardship plan. The duration of time that the department takes to review a stewardship plan pursuant to this paragraph shall not count toward the 90-day time limit specified in paragraph (1)
- (e) A program operator shall submit any significant changes to a stewardship plan in writing for approval by the department, and shall not implement the changes prior to that approval.
- (f) (1) If the department disapproves a submitted stewardship plan pursuant to subdivision (d), the department shall explain, in writing within 30 days, how the plan does not comply with this chapter, and the program operator shall resubmit a revised plan to the department.
- (2) If the department finds that the revised stewardship plan submitted by the program operator does not comply with the requirements of this chapter and disapproves the plan, the covered entity operating its own stewardship program, or the stewardship organization and the covered entities that are members of the stewardship organization, are not in compliance with this chapter until the program operator submits a plan that the department approves.

Questions for Stakeholders

1. CalRecycle observes the need for a timeline and process for resubmittal following conditional approval or disapproval for a stewardship plan, similar to the examples provided.
 - a. Are the example(s) provided a good basis for the plan approval and process timelines in § 42032(d)(1)?
2. Do you have revisions that would improve either of the examples?
3. Do you have another suggested approach for the plan resubmittal timelines?

7. Plan Requirements for Covered Drugs

§ 42032.2.(a)(1)

(G) Require a program operator to do all of the following:

- (i) Permit an ultimate user who is a homeless, **homebound**, or disabled individual to request prepaid, preaddressed mailing envelopes, or an alternative form of a collection and disposal system, as described in paragraph (2) of subdivision (c), that would render the covered drug inert. A program operator shall accept that request through an Internet Web site and toll-free telephone number that it shall maintain to comply with the requests.
- (ii) Provide **alternative methods** of collection from ultimate users for any covered drugs, other than controlled substances, that **cannot be accepted or commingled with other covered drugs** in secure collection receptacles or through a mail-back program, to the extent **technically feasible** and permissible under applicable state and federal law, including, but not limited to, United States Drug Enforcement Administration regulations.

7. Plan Requirements for Covered Drugs, cont'd...

§ 42032.2(e) A stewardship plan shall include provisions to expand into jurisdictions not included in the stewardship plan pursuant to Section 42036.2, in the event a jurisdiction repeals its local stewardship program ordinance.

(f) A stewardship plan shall include educational and outreach provisions to meet the requirements of Section 42031.6.

Questions for Stakeholders

1. How will the stewardship organization identify which drugs cannot be accepted or commingled with other covered drugs?
 - a. Should the process used to conduct this analysis be included in a stewardship plan?
2. Does the term “technically feasible” need to be further defined?

Questions for Stakeholders, cont'd.

3. What are examples of when an alternative method would be necessary?
 - a. How many alternative methods of collection should be provided?
4. Regarding § 42032.2(e):
 - a. What provisions are necessary to consider for expansion into a jurisdiction in the event the ordinance is repealed?

7.a. Authorized Collectors

§ 42032.2(b)(1) At least 120 days before submitting a stewardship plan to the department, the operator of a stewardship program for covered drugs shall notify potential authorized collectors in the county or counties in which it operates of the opportunity to serve as an authorized collector for the proposed stewardship program. If a potential authorized collector expresses interest in participating in a stewardship program, the program operator shall commence **good faith negotiations** with the potential authorized collector within 30 days.

(2) A retail pharmacy shall make a **reasonable effort** to serve as an authorized collector as part of a stewardship program in the county in which it is located. If the minimum threshold described in clause (i) of subparagraph (F) of paragraph (1) of subdivision (a) is not met in each county in which a retail pharmacy chain has store locations, the retail pharmacy chain shall have at least one location or 15 percent of its store locations, whichever is greater, in that county serve as authorized collectors in a stewardship program.

Questions for Stakeholders

1. What form of documentation should be submitted to demonstrate “good faith” and “reasonable effort?”

8. Plan Requirements for Home-Generated Sharps Waste

§ 42032.2(d)(1)

(C) Demonstrate **adequate funding** for all administrative and operational costs of the stewardship program, to be borne by participating covered entities.

...(F) Provide that a stewardship program for home-generated sharps waste shall be a mail-back program for home-generated sharps waste that complies with this chapter and that meets all the following requirements:

(i) The program provides or initiates distribution of a sharps waste container and mail-back materials at the point of sale, to **the extent allowable by law**. Containers and mail-back materials shall be provided at no cost to the ultimate user. The program operator shall select and distribute a container and mail-back materials sufficient to accommodate the volume of sharps purchased by an ultimate user over a **selected time period**.

(ii) Upon request, the program provides for **reimbursement to local agencies for disposal costs** related to home-generated sharps waste, unless the program operator provides for the removal of the home-generated sharps waste from the local household hazardous waste facility.

(iii) A request for reimbursement pursuant to this clause shall be submitted with a declaration under penalty of perjury that the local agency has not knowingly requested reimbursement for expenses prohibited by this section.

(iv) A cost is eligible for reimbursement pursuant to this clause if the cost is incurred 270 days or more after the approval of a stewardship plan for home-generated sharps waste.

§ 42032.2(e) A stewardship plan shall include **provisions to expand** into jurisdictions not included in the stewardship plan pursuant to Section 42036.2, in the event a jurisdiction repeals its local stewardship program ordinance.

(f) A stewardship plan shall include educational and outreach provisions to meet the requirements of Section 42031.6.

Questions for Stakeholders

1. Regarding § 42032.2(d)(1)(F)(i):
 - a. What are examples of when mail-back materials would not be permitted under the law?
 - b. Is clarification needed regarding container volumes and corresponding “sufficient time periods”?

2. Regarding § 42032.2(e):
 - a. What provisions are necessary to consider for expansion into a jurisdiction in the event the ordinance is repealed (note: this question applies to both pharmaceutical and sharps plans)

8.a. Reimbursement of Costs to Local Jurisdictions

§ 42032.2(d)(1)(F)(ii) Upon request, the program provides for reimbursement to local agencies for disposal costs related to home-generated sharps waste, unless the program operator provides for the removal of the home-generated sharps waste from the local household hazardous waste facility.

- (I) A local agency shall not knowingly request reimbursement for disposal expenses pursuant to this subparagraph for disposal costs resulting from a municipal needle exchange program or a medical waste generator.
- (II) Reimbursement costs shall be limited to the actual costs of transportation from the household hazardous waste facility and for the actual costs of disposal.
- (III) A request for reimbursement pursuant to this clause shall be submitted with a declaration under penalty of perjury that the local agency has not knowingly requested reimbursement for expenses prohibited by this section.
- (IV) A cost is eligible for reimbursement pursuant to this clause if the cost is incurred 270 days or more after the approval of a stewardship plan for home-generated sharps waste.

Questions for Stakeholders

1. Do any of the processes here require clarification in regulation or should the Department require the Stewardship Organization to establish reimbursement requirements in its Plan? E.g., How often should a request for reimbursement be allowed? Monthly? Quarterly? What information needs to be included in the reimbursement request?
2. What services must the program offer to provide to remove home-generated sharps waste from a household hazardous waste facility?

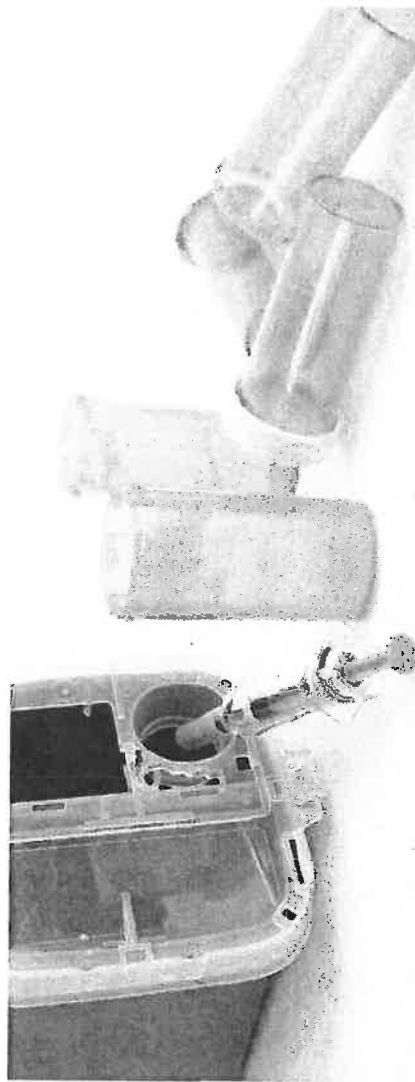
CalRecycle Regulatory Process Next Steps

Feb 27, 2019	Informal Rulemaking Workshop #2: Articles 4-7
April/May 2019	Informal Rulemaking Workshop #3: Draft Regulatory Text
May/June 2019	Informal Rulemaking Workshop #4: Draft Regulatory Text
October 2019	Begin Formal Rulemaking
January 1, 2021	Adopt Final Regulations

Questions?

PharmaSharps@CalRecycle.ca.gov

<https://www2.calrecycle.ca.gov/Listservs/Subscribe/73>



From: CalRecycle Electronic Waste Management ListServ
Sent: Friday, December 21, 2018 2:33:48 PM (UTC-08:00) Pacific Time (US & Canada)
Subject: California Electronic Waste Recycling Program Updates

December 21, 2018

Dear Electronic Waste Stakeholder:

This listserv newsletter is an update on the implementation of California's Electronic Waste Recycling Act of 2003 (Act) regarding the management of Covered Electronic Wastes (CEW) and other electronic waste (e-waste) management developments in California.

In this issue:

**ANNUAL NET COST REPORT REQUIREMENTS
REVISED CEW PAYMENT SYSTEM FORMS**

Annual Net Cost Report Requirements

CalRecycle has posted the signed Public Notice detailing the requirement that approved collectors and recyclers in California's CEW recovery and recycling program calculate and submit Net Cost Reports for operations conducted in 2018. The notice can be found here: <https://www2.calrecycle.ca.gov/PublicNotices/Details/3562>.

Net Cost Reports, required pursuant to Title 14 of the California Code of Regulations (CCR), section 18660.10, are intended to describe the costs and revenues associated with the handling of CEW within the scope of the CEW program. Recyclers should note that recent regulatory changes (18660.10(d)) require them to separately report their CRT CEW and non-CRT CEW recycling. Early in the New Year, approved collectors and recyclers will receive an invitation from CalRecycle to submit their reports online. Reports will be due on or before March 1, 2019.

More information about the Net Cost Report can be found at:
<https://www.calrecycle.ca.gov/Electronics/Recovery/NetCost/default.htm>

Participants are cautioned to not confuse this report with their obligations to comply with the Department of Toxic Substances Control's annual reporting requirements by February 1, 2019 as described on <https://www.dtsc.ca.gov/HazardousWaste/EWaste/index.cfm>.

Revised Covered Electronic Waste Payment System Forms

CalRecycle revised Covered Electronic Waste Payment System forms for use by Approved Recyclers and Collectors to conform to new regulatory requirements. The revised forms are available at: <https://www.calrecycle.ca.gov/Electronics/Recovery/Application/>

The proposed regulations affecting areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations were approved by the Office of Administrative Law (OAL) on September 17, 2018 and became effective on October 1, 2018.

Additional information about this rulemaking can be found at:
<https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/archive/2018septewaste.pdf>

Other Resources

Covered Electronic Waste (CEW) Recycling Program
Information: www.calrecycle.ca.gov/Electronics/CEW

CEW Recycling Payment System Regulations: www.calrecycle.ca.gov/Electronics/RegInfo

DTSC Universal Waste Electronics Handler and Recycler
Information: www.dtsc.ca.gov/HazardousWaste/EWaste

California Statutes and Bills, including Public Resources Code (PRC) and Health and Safety Code (HSC): www.leginfo.legislature.ca.gov

Please note that e-mail correspondence with the Department of Resources Recycling and Recovery (CalRecycle) related to e-waste management in general, and implementation of the Electronic Waste Recycling Act in particular, should be directed to ewaste@calrecycle.ca.gov.

Also note that an archive of past distributions of this newsletter is available at:

- [2004 to Present](#)
- [Pre-2004](#)

Thank you for your interest in shaping California's e-waste management future.

IN THE LOOP

*Tips, information, and musings
from the California Department of Resources Recycling and Recovery*

IN THIS ISSUE:

What We're Working On

What's Coming Up

Quick Features

Video: Contamination: It's a Dirty Word

Social Media

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What We're Working On

Debris Removal Underway in Historic Wildfire Recovery Missions

Crews managed by CalRecycle have begun the removal of wildfire ash, debris, and contaminated soil on burned properties following wildfires in Butte, Los Angeles, and Ventura counties. Over the next year, crews will work to clear more than 15,000 properties destroyed in the Camp, Woolsey, and Hill fires as part of the largest disaster debris removal operation in modern California history. [See our news release for more information.](#)

Local Economies Get Green Boost: \$5.3 Million

CalRecycle approved \$5.3 million in loans to two California companies to create new jobs, increase recycling infrastructure, and reduce greenhouse gas emissions in California. The financing will help Peninsula Plastics Recycling, Inc. of Turlock (Stanislaus County) and U.S. Rubber Recycling, Inc. of Grand Terrace (San Bernardino County) expand their workforce while making use of an additional 17,300 tons of California-generated waste tires and plastic each year. [See our news release for more information.](#)

Border Checkpoints Put Brakes on Recycling Fraud Schemes

CalRecycle has announced the arrests of two drivers on charges of felony recycling fraud, attempted grand theft, and conspiracy following stings at temporary border checkpoints in Riverside and San Bernardino counties. The suspects are accused of trying to smuggle more than 8,000 pounds of empty beverage containers from Arizona and Nevada into California in an attempt to

defraud the California Redemption Value fund. [See our news release for more information.](#)

What's Coming Up

CalRecycle February Public Meeting

10 a.m. Tuesday, February 19
Byron Sher Auditorium, CalEPA Building
1001 I St., Sacramento, CA

You can find the full agenda and other materials for [CalRecycle's February public meeting here](#). If you can't make it in person, [join us by webcast](#) (the link will go live shortly before the meeting begins).

Quick Features

California Ramps Up Green Waste Recycling

California is gearing up to implement a new recycling program to combat climate change. Starting in 2020, cities and counties in California will be required to provide organics recycling collection services to all residents and businesses, which is a significant step toward combating the effects of climate change.

Environmental Pathways

In January, a handful of CalRecycle staff members participated in mock interviews with environmentally focused high school students in the San Francisco Unified School District.

My Time as a CalRecycle Student Assistant

It's safe to say that a year ago, I knew very little about the recycling industry in California. But since I joined CalRecycle's Knowledge Integration Section as a Student Assistant in April of last year, I have become somewhat of an expert.

Environmental Bucket List

It's inevitable—whenever the New Year comes around, we all start thinking about what we'd like to accomplish in the upcoming 12 months. This year I'm taking a different approach and rather than making resolutions I have to keep all year, I'm

making a list of items I'd like to do (or have done very recently) that benefit me and the environment.

Video: Contamination: It's a Dirty Word

Take 60 seconds to watch our contamination video and up your recycling game!

Follow us on Twitter and Facebook!

Our blog has moved to our updated CalRecycle website. Check it out!

Questions, Comments? Contact us!

IN THE LOOP

Tips, information, and musings

from the California Department of Resources Recycling and Recovery

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What We're Working On

California Launches Unprecedented Wildfire Cleanup Effort

CalRecycle, in partnership with the Governor's Office of Emergency Services; Butte, Los Angeles, and Ventura counties; the California Department of Toxic Substances Control; the U.S. Environmental Protection Agency; the Federal Emergency Management Agency; and other federal, state, and local partners, has begun the process of clearing debris following the most destructive series of wildfires in California history. [See our news release for more information.](#)

Businesses Find New Use for 1.7 Million Waste Tires

CalRecycle has approved nearly \$2.9 million in grant funding to nine companies that use California waste tires to make new products. [See our news release for more information.](#)

Recycled Tires Help Fix California Roadways

CalRecycle awarded \$8.2 million in grants for local infrastructure projects that use recycled tires for road upgrades and civil engineering work. [See our news release for more information.](#)

What's Coming Up

CalRecycle January Public Meeting
10 a.m. Tuesday, January 15
Byron Sher Auditorium, CalEPA Building
1001 I St., Sacramento, CA

A few days before the meeting, you can find the full agenda and other materials for CalRecycle's January public meeting here. If you can't make it in person, join us by webcast (the link will go live shortly before the meeting begins).

Quick Features

New Laws Affecting CalRecycle—And You

CalRecycle staff has been busy preparing to meet the department's new statutory responsibilities. Here are the top new laws that CalRecycle will be helping to implement.

Businesses Not Complying with Recycling Laws? Let Us Know! You can help get a workplace, apartment building, multifamily complex, restaurant, or other business in compliance with California's recycling and organics recycling requirements.

Video: Hi There, California!

Thank you for your efforts to protect the environment—and keep up the good work.

Follow us on Twitter and Facebook!

Our blog has moved to our updated CalRecycle website. Check it out!

IN THE LOOP

Tips, information, and musings

from the California Department of Resources Recycling and Recovery

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Contact Us!

What We're Working On

16 Million Recycling Fraud Ring: Agents Track Suspects to Arizona

CalRecycle, in partnership with the California Department of Justice and the Arizona Department of Public Safety, is announcing the arrests of three suspects accused of using an Arizona trucking company as a front to defraud California's Beverage Container Recycling Program. [See our news release for more information.](#)

Wildfire Debris Cleanup and Recovery

CalRecycle is working alongside CalOES and other federal, state, and local partners to bring all available resources to assist with wildfire recovery efforts in Butte, Los Angeles, and Ventura counties. CalRecycle will also be involved in fire debris removal cleanup for the Camp and Woolsey fires under the leadership of CalOES and local governments. [See our Wildfire Debris Cleanup webpage.](#)

What's Coming Up

CalRecycle November Public Meeting

10 a.m. Tuesday, December 18

Byron Sher Auditorium, CalEPA Building
1001 I St., Sacramento, CA

A few days before the meeting, you can find the full agenda and other materials for [CalRecycle's December public meeting here](#). If you can't make it in person, [join us by webcast](#) (the link will go live shortly before the meeting begins).

Quick Features

Wildfires Create New Danger: Hazardous Debris

The latest wildfires in California have left more than 80 people dead, 161,000 acres burned, and more than 10,000 homes and structures destroyed. But as changing weather patterns and the tireless work of firefighters help boost containment lines, communities devastated by the fires now face potential health risks associated with the improper handling of fire debris.

The Re-Gift That Keeps On Giving

Some people think it's tacky to give a gift that was once given to them, but from an economic and environmental standpoint, it makes a lot of sense. Here are some important rules to keep in mind when regifting.

Trailblazing for the Planet

Progressive, revolutionary, trailblazing, forward-thinking—whatever you want to call us, you can't deny California is at the forefront of environmental protection and sustainable practices. And where we lead, the rest of the country seems to follow. Here's a [timeline](#) with a just a few ways the state has pushed for sustainability, waste management, and environmentalism through laws and regulations.

Video: Ho, Ho, Hold the Holiday Waste!

Keep holiday waste to a minimum with these tips from CalRecycle.

List Archive Message Details | LMS

State of California

December 21, 2018

Dear Electronic Waste Stakeholder:

This listserv newsletter is an update on the implementation of California's Electronic Waste Recycling Act of 2003 (Act) regarding the management of Covered Electronic Wastes (CEW) and other electronic waste (e-waste) management developments in California.

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In this issue:

ANNUAL NET COST REPORT REQUIREMENTS

REVISED CEW PAYMENT SYSTEM FORMS

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Annual Net Cost Report Requirements

CalRecycle has posted the signed Public Notice detailing the requirement that approved collectors and recyclers in California's CEW recovery and recycling program calculate and submit Net Cost Reports for operations conducted in 2018. The notice can be found here:

<https://www2.calrecycle.ca.gov/PublicNotices/Details/3562>.

Net Cost Reports, required pursuant to Title 14 of the California Code of Regulations (CCR), section 18660.10, are intended to describe the costs and revenues associated with the handling of CEW within the scope of the CEW program. Recyclers should note that recent regulatory changes (18660.10(d)) require them to separately report their CRT CEW and non-CRT CEW recycling. Early in the New Year, approved collectors and recyclers will receive an invitation from CalRecycle to submit their reports online. Reports will be due on or before March 1, 2019.

More information about the Net Cost Report can be found at:

<https://www.calrecycle.ca.gov/Electronics/Recovery/NetCost/default.htm>

Participants are cautioned to not confuse this report with their obligations to comply with the Department of Toxic Substances Control's annual reporting requirements by February 1, 2019 as described on <https://www.dtsc.ca.gov/HazardousWaste/EWaste/index.cfm>.

Revised Covered Electronic Waste Payment System Forms

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CalRecycle revised Covered Electronic Waste Payment System forms for use by Approved Recyclers and Collectors to conform to new regulatory requirements. The revised forms are available at: <https://www.calrecycle.ca.gov/Electronics/Recovery/Application/>

The proposed regulations affecting areas within Chapter 8.2 of Division 7 of Title 14 of the California Code of Regulations were approved by the Office of Administrative Law (OAL) on September 17, 2018 and became effective on October 1, 2018.

Additional information about this rulemaking can be found at:

<https://www.calrecycle.ca.gov/docs/cr/laws/rulemaking/archive/2018septewaste.pdf>

Other Resources

Covered Electronic Waste (CEW) Recycling Program Information:
www.calrecycle.ca.gov/Electronics/CEW

CEW Recycling Payment System Regulations:
www.calrecycle.ca.gov/Electronics/RegInfo

DTSC Universal Waste Electronics Handler and Recycler Information:
www.dtsc.ca.gov/HazardousWaste/EWaste

California Statutes and Bills, including Public Resources Code (PRC) and Health and Safety Code (HSC): www.leginfo.legislature.ca.gov

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Please note that e-mail correspondence with the Department of Resources Recycling and Recovery (CalRecycle) related to e-waste management in general, and implementation of the Electronic Waste Recycling Act in particular, should be directed to ewaste@calrecycle.ca.gov.

Also note that an archive of past distributions of this newsletter is available at:

- [2004 to Present](#)
- [Pre-2004](#)

Thank you for your interest in shaping California's e-waste management future.

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To subscribe to or unsubscribe from the E-Waste listserv or other listservs, please go to www2.calrecycle.ca.gov/Listservs/. For information on California's Electronic Waste Recycling Act of 2003 (SB 20) implementation efforts, as well as other relevant developments go to www.calrecycle.ca.gov/Electronics/.



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CalEPA

CERS Knowledge Base, Help, and FAQs

Business Portal - Edit Facility Name

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2018/11/Dec.-2018-CERS-Edit-Facility-name-Business-Portal.pdf>

If you have questions, please email cers@calepa.ca.gov.

State Water Board

Underground Storage Tank Leak Prevention January – June 2018 Semiannual Report

The United States Environmental Protection Agency (U.S. EPA) in collaboration with the State Water Resources Control Board (State Water Board) prepared the Underground Storage Tank (UST) Leak Prevention January – June 2018 Semiannual Report with data collected from the California Environmental Reporting System (CERS) and the California GeoTracker database. This report summarizes important subjects such as CERS implementation status, release reporting,

and single-walled UST data. Data are presented for each Unified Program Agency (UPA) and the State as a whole.

Important findings include:

- No new releases were discovered or reported from currently operating and permitted USTs, however 33 historical releases were reported. Historical releases include releases discovered that occurred in the past, and historical releases that had not been previously reported,
- 29 UPAs are now approved for paperless reporting of Report 6,
- 99.1% of UST facilities are now in CERS, but 10.5% of facilities lack basic tank information such as the number of USTs,
- 3,009 single-walled USTs are still in operation at 1,216 facilities, and
- UST violation, return to compliance, and enforcement data show a consistent trend between 2017 and 2018.

The UST Leak Prevention January – June 2018 Semiannual Report can be found on the UST Program website at <https://www.waterboards.ca.gov/ust/>

For more information regarding The UST Leak Prevention January – June 2018 Semiannual Report, please contact Ms. Laura Fisher at (916) 341-5870 or email at Laura.Fisher@waterboards.ca.gov.

ICC California UST Inspector Renewal Updates

The State Water Board, in collaboration with UPA representatives from each of the four regions, is updating the International Code Council (ICC) California UST Inspector Certification renewal guidelines for continuing education contact hours and supplemental forms for the renewal. This revision is the first since 2007 for the guidelines and will incorporate revisions to update language and reference current regulatory requirements. UPA representatives are providing significant support during this process and their time is appreciated.

For more information about the ICC continuing education renewal updates, please contact Ms. Lisa Jensen at (916) 319-0742 or email at Lisa.Jensen@waterboards.ca.gov.

Energy Policy Act Certification

Every February the State Water Board is required to certify compliance with the UST provisions of the Energy Policy Act of 2005 (EPA). At the direction of U.S. EPA, CERS will be utilized to verify each UPA has complied with the federal three-year UST inspection frequency.

To verify compliance with the federal three-year UST inspection frequency, each UPA will need to run a CERS UST Inspection Report to identify any missing inspections or inaccurate data. State Water Board staff will run a CERS UST Inspection Report in January 2019, therefore, UPAs

should run their report now and in mid-December and complete any missing UST compliance inspections or correct any inaccurate data.

Information on how to run a CERS UST Inspection Report can be found on the UST Program website at https://www.waterboards.ca.gov/ust/adm_notices/cers_ust_inspection_reports.pdf

For more information about the EPAct, please contact Ms. Jessica Botsford at (916) 341-7338 or email at Jessica.Botsford@waterboards.ca.gov.

Informational Documents on the New Title 23 UST Requirements

State Water Board staff have developed and continue to develop informational documents to assist UST owners, operators, contactors, designated operators, service technicians, and regulators understand the new UST requirements that became effective October 1, 2018. The informational documents are presented in a question and answer format that can be easily updated as new questions arise. It's important to note the content contained in the informational documents in many instances supersedes previous State Water Board guidance documents. At the end of each informational document is a table identifying which State Water Board documents contain superseded content. Informational documents regarding the emergency generator tank system line leak detection, overfill prevention equipment inspection, spill container testing, and secondary containment testing requirements have been distributed through the UST Program's Email Distribution System (known as Lyris) and are posted on the UST Program website under "Staying Connected" at https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/fed_rec_regs/.

To receive these informational documents and other important UST Program information please subscribe to the UST Program's Lyris email distribution at https://www.waterboards.ca.gov/resources/email_subscriptions/ust_subscribe.html.

For more information regarding the new Title 23 UST requirements, please contact Mr. Cory Hootman at (916) 341-5668 or email at Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or email at Tom.Henderson@waterboards.ca.gov.

Informative Webinars on UST Regulations and Report 6

State Water Board staff have completed the second series of webinars designed to assist various stakeholders with the changes to the California UST regulations. The webinars began after the regulations became effective on October 1, 2018. Seven webinars were presented for the regulated community and an additional seven for the UPAs. The number of webinar participants is estimated to be 2,000 individuals.

The information provided was intended to assist the UST community in complying with the regulations for testing, inspection, compatibility, upgrades, and designated operator requirements. The webinar presentations can be found on the UST Program Website at https://www.waterboards.ca.gov/ust/adm_notices/fed_rec_regs/

Additionally, State Water Board staff presented six webinars on the revised Report 6 requirements which reflect the changes to California UST regulations and new U.S. EPA performance measures. The Report 6 webinar presentation can be found on the UST Program Website at

https://www.waterboards.ca.gov/ust/leak_prevention/docs/perf_meas_webinar_notification.pdf

For more information regarding the webinars, please contact Mr. Cory Hootman at (916) 341-5668 or email at Cory.Hootman@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or email at Tom.Henderson@waterboards.ca.gov.

Office of Tank Tester Licensing – List of Licensed Tank Testers

The Office of Tank Tester Licensing updates the list of licensed tank and pipe integrity testers monthly, and can be found on the UST Program Website at

https://www.waterboards.ca.gov/water_issues/programs/ust/leak_prevention/lgs/105_12.shtml

For more information regarding licensed tank and pipe integrity testers, please contact Mr. Sean Farrow at (916) 324-7493 or email at Sean.Farrow@waterboards.ca.gov.

DTSC

Legislation

The Department of Toxic Substances Control's (DTSC) Legislative Summary Report and Legislative Mandates Report are now posted to the DTSC website at

https://dtsc.ca.gov/LawsRegsPolicies/leg_summaries.cfm.

The Summary Report identifies all the legislation considered by the California Legislature during 2017-2018 that directly or indirectly involves DTSC. The Mandates Report provides information on new legislatively mandated activities and important statutory changes resulting from legislation enacted in the second half of the 2017-2018 Legislative Session.



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CalEPA

CERS Knowledge Base, Help, and FAQs

How do I find submittal information for past submittal elements in the California Environmental Reporting System (CERS) Business Portal?

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2019/01/December-2018-How-do-I-find-history-on-past-submittal-elements-in-CERS.pdf>

DTSC

Re-adoption of Emergency Regulations: Determining the Initial Penalty for Each Violation

Effective January 1, 2018, AB 245 amended Health and Safety Code sections 25188, 25189, and 25189.2 to increase administrative and civil penalties to a maximum of \$70,000 per day per violation. Emergency regulations to adopt the increase in penalties became effective on July 5, 2018, and were scheduled to expire on January 3, 2019. These emergency regulations were re-adopted on January 3, 2019, and are now effective. The expiration date of the emergency regulations is April 3, 2019. The rulemaking file can be found on DTSC's website at <https://dtsc.ca.gov/LawsRegsPolicies/Regs/determining-initial-penalty-each-violation.cfm>

Permit by Rule and Conditional Authorization Tier Permitting Facilities Must Adjust Closure Cost Estimates for Inflation by March 1, 2018

Financial assurance is required for tier permitting facilities that are under the permit by rule (PBR) and conditional authorization (CA) tiers. Closure cost estimates are required as part of the closure plans under PBR and CA. Adjusted closure costs are estimated by multiplying the current cost estimate and the estimated inflation factor.

The inflation factor in a closure plan's closure cost estimate and a facility's financial assurance mechanism should be calculated using the values provided by the U.S. Department of Commerce, Bureau of Economic Analysis (BEA) at

<https://www.bea.gov/iTable/iTable.cfm?reqid=19&step=2#reqid=19&step=3&isuri=1&1921=survey&1903=13>.

PBR and CA facilities are required to adjust closure cost estimates for inflation by March 1st of every year (California Code of Regulations, Title 22, Section 67450.13). Because the inflation factor for the full 2018 year will not be available until the end of March, 2019, DTSC recommends using a ratio of the third quarter inflation factor for the past two years to estimate the 2019 inflation factor.

As provided by the U.S. Department of Commerce, BEA in Line 27 of "Table 1.1.9. Implicit Price Deflators for Gross Domestic Product (A)(Q)" of "Section 1- Domestic Product and Income," the 3rd quarter inflation factor for 2018 is 110.605 and the 3rd quarter inflation factor for 2017 is 108.053. The estimated inflation factor for 2019 is 1.024, derived as follows:

Estimated inflation factor for 2019	=	3rd quarter inflation factor for 2018	÷	3rd quarter inflation factor for 2017
1.024		110.605		108.053

State Water Board

New Health and Safety Code, Chapter 6.7 UST Requirements Effective January 1, 2019

In September 2018, Governor Brown signed Assembly Bill No. 2902 (AB 2902). The underground storage tank (UST) relevant parts of AB 2902 amend Health and Safety Code, division 20, chapter 6.7 (H&SC 6.7), sections 25281.5, 25285, and 25292.3, effective January 1, 2019.

The new underground storage tank (UST) statutes allow Unified Program Agencies (UPAs) to issue or renew a UST operating permit to a facility not in full compliance, expands the definition of an "emergency generator tank system" to include systems that store kerosene in lieu of diesel, and extends red tag authority to State Water Resources Control Board (State Water Board) staff. A detailed explanation of the new law can be found at

https://www.waterboards.ca.gov/ust/adm_notices/ust_provisions_in_ab2902.pdf

A revised version of H&SC 6.7, including both the amended and deleted language, can be found at https://www.waterboards.ca.gov/ust/regulatory/docs/hsc_6_7_01_2019.pdf.

For more information regarding new UST statutes, please contact Mr. Tom Henderson at (916) 319-9128 or email Tom.Henderson@waterboards.ca.gov

Revised Definition for Tank in Underground Area (TIUGA)

In addition to the previously mentioned effects of AB 2902, effective January 1, 2019, the definition of a TIUGA now includes tank systems with connected single-walled emergency vent piping solely designed to relieve excessive internal pressure. Also, the definition is modified to allow the interstitial space of the tank system or, containment structure in which the tank is located, to be monitored for leaks in lieu of directly viewing the exterior of the tank. This modification effectively defines all fully double-wall petroleum storage tanks systems in below grade structures that are not connected to a buried tank as a TIUGA and are subject to above ground storage tank (AST) requirements.

For more information regarding TIUGA, please contact Mr. Cory Hootman at (916) 341-5668 or email Cory.Hootman@waterboards.ca.gov or Ms. Jennifer Lorenzo at (916) 263-1801 or email Jennifer.Lorenzo@fire.ca.gov.

Transferring TIUGAs from the UST Program to the AST Program in CERS

The upcoming release of CERS version 3.0 (CERS 3), currently scheduled for release March 2019, includes a simplified process for changing the status of a tank from the UST program to the AST program for those systems meeting the definition of a TIUGA. To assist UST owners, operators, and regulators prior to the release of CERS 3, a CERS Frequently Asked Questions (FAQ) titled *Reporting a TIUGA (former UST in CERS) as an AST subject to APSA* has been developed and posted on the CERS Central webpage regarding transferring tank systems in CERS. The FAQ dated 12/17/2018 outlines the submittal process to report this change including updating the Business Activities questions, the Hazardous Materials Inventory, the site map, and the UST section to remove this tank from the UST portion of CERS submittals. The FAQ can be found at <https://cers.calepa.ca.gov/about-cers/help-materials/>.

For more information regarding TIUGA, please contact Mr. Cory Hootman at (916) 341-5668 or email Cory.Hootman@waterboards.ca.gov or Ms. Jennifer Lorenzo at (916) 263-1801 or email Jennifer.Lorenzo@fire.ca.gov.

CERS UST Data Accuracy – A Continuous Improvement Effort

Why do we collect, store, and use data?

1. To inform data-driven management and planning activities – performance report cards, evaluation of program effectiveness, workplans, resource assignment, along with many other examples;
2. To inform critical decision making regarding the State Water Board mission and water management responsibilities – including water quality planning and policy, water allocation and use, permitting, program prioritization, etc.; and
3. To provide transparency to the many partners and stakeholders for their use, interests and purposes.

What are the Guiding Principles for State Water Board Data Management?

Data Accessibility – State Water Board values transparency and strives to make all critical data in CERS available to UPAs through Excel reports downloadable from CERS. State Water Board explains the different data by providing information about each piece of data (metadata) as part of the data dictionary.

Understanding Data Quality and Integrity – State Water Board data are thoughtfully planned, of a known and useful quality, with specific practices to protect data integrity using standards and protocols.

Data Used to Govern – State Water Board uses data to govern or make decisions that are in the best interest of the mission of preserving, enhancing, and restoring the quality of California's water resources and drinking water for the protection of the environment, public health, and all beneficial uses.

Data Governance – our organization takes proactive steps to develop effective data and information technology management practices to ensure data flows to where it is needed in a timely manner while complying with data sharing policies.

The use of CERS has increased and improved since inception which provides an opportunity to look closely at areas of improvement available to us. As a result, State Water Board has identified some issues with data quality which need to be addressed.

For more information about these issues, please contact Ms. Lisa Jensen at (916) 319-0742 or email Lisa.Jensen@waterboards.ca.gov.

Cal FIRE OSFM

Assembly Bill (AB) 2902 Effective January 1, 2019

AB 2902, which was approved by the Governor and chaptered into law on September 23, 2018, became effective on January 1, 2019. AB 2902 makes various amendments to APSA as follows:

- a. Clarifies the definition of an 'aboveground storage tank' or 'storage tank' to include a tank or a **container** that has the capacity to store 55 gallons or more of petroleum that is substantially or totally above the surface of the ground.
- b. Excludes from the definition of an 'aboveground storage tank' or 'storage tank' a tank containing hazardous waste or extremely hazardous waste if the owner or operator of the tank has a hazardous waste facilities permit from the Department of Toxic Substances Control or a **permit by rule authorization from a Unified Program Agency** for the storage tank.
- c. Excludes from the definition of an 'aboveground storage tank' or 'storage tank' a tank in an underground area that has the capacity to store less than 55 gallons of petroleum, has secondary containment, and is inspected monthly, if the owner or operator maintains a log of inspection records for review by the Unified Program Agency upon request.
- d. Clarifies the definition of a 'tank in an underground area' to be a **stationary** storage tank.
- e. Clarifies that, **except for an emergency vent that is solely designed to relieve excessive internal pressure**, all piping connected to the tank in an underground area, including any portion of a vent line, vapor recovery line, or fill pipe that is beneath the surface of the ground, and all ancillary equipment, **that is designed and constructed to contain petroleum**, can be visually inspected by direct viewing or has both

secondary containment and leak detection that meet the requirements adopted by the Office of the State Fire Marshal (OSFM).

- f. Clarifies that direct viewing of the exterior of a tank in an underground area is not required if inspections of the interstitial space or containment structure are performed or if the storage tank has a mechanical or electronic device that will detect leaks in the interstitial space or containment structure, and alert the tank operator.
- g. Clarifies that if a tank facility has a storage capacity of less than 1,320 gallons of petroleum, the following tanks in an underground area are not subject to APSA:
 - i. The tank holds hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, or other similar devices.
 - ii. The tank is a heating oil tank.
 - iii. The tank is a sump, separator, clarifier, catch basin, or storm drain.
- h. Clarifies that the owner or operator of a tank facility with a storage capacity of less than 1,320 gallons of petroleum and has one or more tanks in an underground area may use the format adopted by the OSFM to prepare a spill prevention, control, and countermeasure plan.

To view the full text of the bill, visit the California Legislative Information website at http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2902.

References or links to information cited in this newsletter are subject to change. CalEPA is interested in your comments and suggestions regarding the Unified Program monthly newsletter. Please email your comments and suggestions to: cupa@calepa.ca.gov.

[CalEPA Unified Program Home Page](#)

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February Knowledgebase – CERS 3 Enhancement – APSA New Field

<https://cers.calepa.ca.gov/wp-content/uploads/sites/11/2019/01/February-2019-CERS-3-Enhancement-APSA-New-Field.docx>

Broken Links?

CalEPA would like to request all California Environmental Reporting System (CERS) users periodically update existing internet “favorites” and “bookmarks” weblinks for CERS Central and Unified Program webpages. As the website host changed for CalEPA internet resources in 2018, historical internet “favorites” and “bookmarks” may now link to webpages that are no longer available or to webpages that no longer contain accurate information. Please refresh your internet browser to re-establish internet links.

This has been a common occurrence with trying to access the Consolidated Emergency Response/Contingency Plan in CERS Central as well as through the Unified Program “Publications and Forms” webpage. Many people attempting to access the fillable form or instructions documents with previous active links will receive an error as the links to the documents appear to be “broken.”

To ensure quick access to the correct webpages and documents, please refresh all internet “favorites” and “bookmarks,” including the following:

- CERS Central: <https://cers.calepa.ca.gov/>
- CERS Central Businesses Homepage: <https://cers.calepa.ca.gov/businesses/>

Air Resources Board • Department of Pesticide Regulation • Department of Resources Recycling and Recovery • Department of Toxic Substances Control Office of Environmental Health Hazard Assessment • State Water Resources Control Board • Regional Water Quality Control Boards

- Unified Program: <https://calepa.ca.gov/cupa/>
- Unified Program “Publications and Forms” webpage:
<https://calepa.ca.gov/cupa/publications/>
- Consolidated Emergency Response/Contingency Plan (Revised 3-7-17)
 - Fillable Template: <https://calepa.ca.gov/wp-content/uploads/sites/6/2017/05/CUPA-Documents-eTemplates-Contingency.pdf>
 - Instructions: https://calepa.ca.gov/wp-content/uploads/sites/6/2017/06/20170307_CERS-Consolidated-Contingency-Plan-Instructions.pdf

For questions regarding the use of the Consolidated Emergency Contingency Plan template, please contact John Paine, Unified Program Manager, at john.paine@calepa.ca.gov or (916) 327-5092.

CERS Regulator and Business Users Account Management

CalEPA requests each Regulator and Business ‘Lead User’ to review and manage the ‘People’ associated with each CERS account. CalEPA recommends that each CERS user account be deleted if the user is no longer with the agency/organization or no longer has a need to access CERS. The following instructions are to assist “Lead Users” with the deletion of a CERS user account:

Local Regulator Lead Users:

- 1) Sign into the CERS Regulator Portal at <https://cers.calepa.ca.gov/3>
- 2) Select the Regulators tab
- 3) Review ‘People’
- 4) Select the user account to be deleted
- 5) Select ‘Delete’
- 6) Select ‘Confirm’

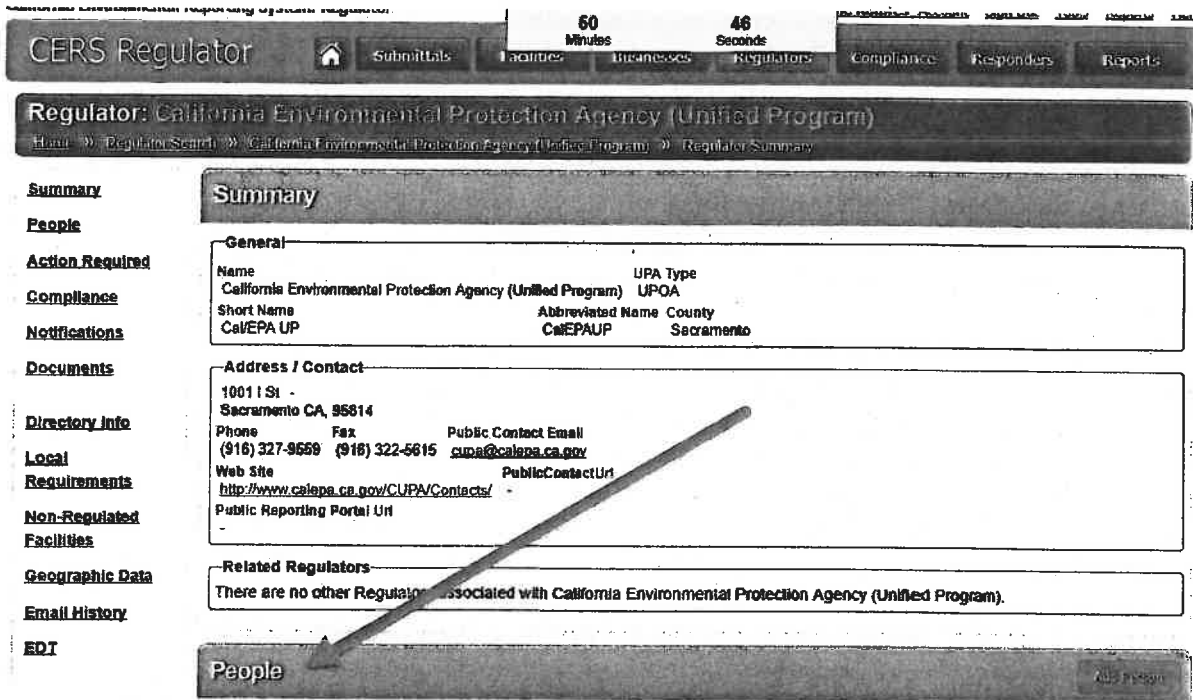


Figure 1: CERS Regulators Tab Graphic indicating the People Selection

Business Lead Users:

- 1) Sign into the CERS Business Portal at <https://cers.calepa.ca.gov/>
- 2) Select 'People/Users' icon
- 3) Select the user account to be deleted
- 4) Select 'Delete'
- 5) Select 'Confirm'

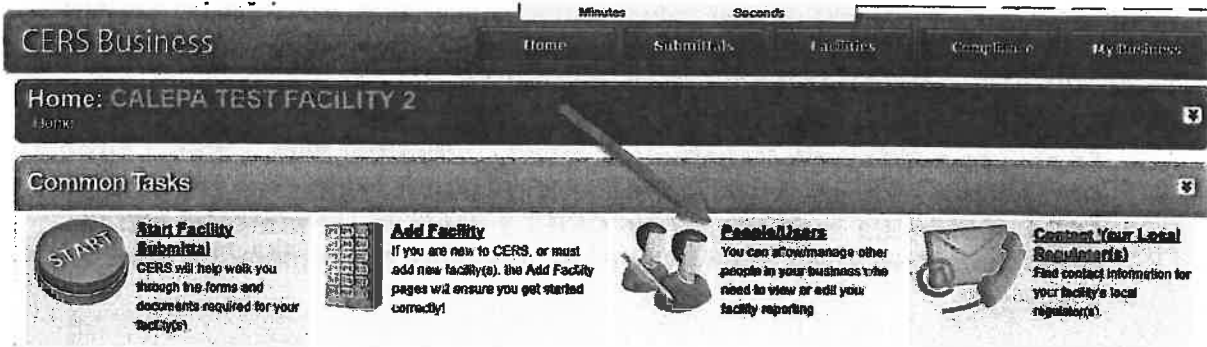


Figure 2: CERS Business Graphic indicating the People/Users Selection

CERS 3: Test It Out!

The third version of CERS, CERS 3, is set to deploy on April 2, 2019. CERS business and regulator users can become familiar with the new CERS 3 enhancements by taking advantage of the opportunity to access the CERS Testing environment before CERS 3 is deployed to the production environment on April 2, 2019. Each of the CERS Testing

environments demonstrate what is expected with the deployment of CERS 3. To access each of the CERS Testing environment portals, use the following links:

- Regulator Portal Testing environment:
<https://cersapps.calepa.ca.gov/Testing/Regulator/>
- Business Portal Testing environment:
<https://cersapps.calepa.ca.gov/Testing/Business/>
- EDT Testing environment: <https://cersapps.calepa.ca.gov/Testing/EDT>

CERS 3 Enhancements Deployed April 2, 2019

CalEPA, Certified Unified Program Agencies (CUPAs) and CUPA Data Services Vendors are diligently progressing toward the completion of development and testing of each of the CERS enhancements, which have been referred to as “the release of CERS 3.0.” CERS 3.0 is anticipated for use beginning April 2, 2019. Each of the CERS 3.0 enhancements is necessary as each is considered to be relative to existing reporting requirements for businesses to lawfully report facility information electronically.

CERS 3.0 will incorporate the following enhancements to the existing CERS system:

- **Aboveground Petroleum Storage Act (APSA) Program:** Businesses will be able to report information in the new APSA submittal element. The existing language and functionality of Data Field ID 8 (Own or Operate Aboveground Petroleum Storage Tank) will prompt the completion of four new data fields specific to APSA program data, if applicable. The new data fields will indicate whether or not the facility is exempt from preparing and implementing a Spill Prevention, Control and Countermeasure (SPCC) Plan and if so, the date of the SPCC Plan Certification or Date of 5-Year Review, the total aboveground storage capacity of petroleum and the number of tanks in underground areas at the facility. In addition to the miscellaneous document upload option currently available, there will be a specific document upload feature for uploading Tank Facility Statements and available search functionality for APSA reported information.
 - *To ensure a thorough transition of facility submittal data, CalEPA strongly encourages businesses to complete and submit or discard any unfinished APSA submittals in CERS before CERS 3 deploys. Information within unfinished draft submittals will not be available for completion after CERS 3 deploys.*
- **Underground Storage Tank (UST) Program:**
 - **Unique UST identification number:** CERS will automatically issue a unique and specific tank identification number for each UST reported in CERS. This CERS issued identification number is independent of the identification used by facility owners and will never change, regardless of change in ownership, change in regulator, or change in the identification number issued by the facility owner.

- **Type of Action:** With the establishment of Tanks In Underground Areas, CERS will provide the options to indicate whether a UST is being transferred to the APSA Program or whether an APSA tank is being transferred to the UST Program. Additionally, a new option to indicate if a facility is splitting into more than one, which would transfer ownership of an existing UST.
- **Performance Measures Technical Compliance Rate (TCR) Replaces Significant Operational Compliance (SOC) Determination:** The Violation Library includes 36 NEW UST Program violations based Performance Measures TCR. Performance Measures TCR violations will supersede SOC Determination violations for all inspections occurring on or after October 1, 2018. SOC Determination violations will apply to inspections occurring prior to October 1, 2018. The compliance, monitoring and enforcement (CME) report that reflects UST inspection summary data by regulator (Report 6) will also include Performance Measures TCR data required by the United States Environmental Protection Agency (U.S. EPA).
- **Tank Use and Tank Contents:** The valid value of "07 = Airport Hydrant System" will be added to the existing Data Field ID 439 (Tank Use). The following valid values will be added to the existing Data Field ID 440 (Tank Contents): E85, Biodiesel B6-B99, Biodiesel B100, and Kerosene; while Petroleum Blend Fuel and Ethanol will be removed.
- **Board of Equalization Number (BOE):** The California Department of Tax and Fee Administration is changing the format of BOE numbers issued to new businesses starting spring 2019. CERS will continue the use of the format for existing businesses' BOE numbers as well as those for state and federal facilities. However, CERS will also be able to accommodate the format on the new nine-digit BOE numbers issued to new businesses.
- ***To ensure a thorough transition of facility submittal data, CalEPA strongly encourages businesses to complete and submit or discard any unfinished UST submittals in CERS before CERS 3 deploys. Information within unfinished draft submittals will not be available for completion after CERS 3 deploys.***

- **CERS Reports and Queries:** Various reports and query capabilities have been revised to include the applicable new data captured in CERS.
- **Electronic Data Transfer:**
 - The data exchange for Dun and Bradstreet numbers will allow for leading zeros, and valid characters will be limited to 0-9.
 - Schema and code updates for all APSA and UST enhancements.

For additional information, please visit CERS Central at <https://cers.calepa.ca.gov>, the CERS 3 Project Status website at <https://cers.calepa.ca.gov/cers-3-project-status/>, or contact the CERS Technical Support Unit at cers@calepa.ca.gov.

DTSC

Booth and Workshop at 21st California Unified Program Training Conference

Stop by DTSC's booth at the 21st California Unified Program Training Conference in Anaheim, California, from February 25-28, 2019, for exciting updates on DTSC, resources on EPA and State ID numbers and e-Manifest. Marlicia Jauregui of DTSC will be presenting a workshop titled "RCRA e-Manifest" on Monday, February 25th at 9 a.m. The objective of the workshop is for regulators and industry users to learn the status of the e-Manifest implementation by U.S. EPA.

2018 electronic Verification Questionnaire Update

The 2018 electronic Verification Questionnaire (eVQ) cycle ended on February 1, 2019. DTSC will assist any hazardous waste handlers that have not completed their 2018 eVQ to be in compliance. For assistance, please email eVQ@dtsc.ca.gov or call the DTSC Telephone Information Center at 1-877-454-4012, Monday - Friday from 9:00 a.m. to 4:00 p.m. (Pacific Time).

References or links to information cited in this newsletter are subject to change. CalEPA is interested in your comments and suggestions regarding the Unified Program monthly newsletter. Please email your comments and suggestions to: cupa@calepa.ca.gov.

[CalEPA Unified Program Home Page](#)

CAMP FIRE RECOVERY

Phase 2: Debris Removal



Cal OES
GOVERNOR'S OFFICE
OF EMERGENCY SERVICES

Following the removal of household hazardous waste from burned parcels (Phase 1), affected property owners must decide whether to participate in the state-managed program to remove wildfire debris from their property or hire a properly licensed private contractor to perform the work in accordance with local health, safety, and environmental standards and requirements.

What does Phase 2 of California's Consolidated Debris Removal Program entail?

CalRecycle oversees and manages contractors to conduct debris removal at no out-of-pocket cost to property owners. To participate, owners must grant cleanup crews access to their property by returning signed Right-of-Entry agreements to their local government.

Camp Fire ROE Deadline: January 31, 2019

Submit Camp Fire Right-of-Entry forms to ROE@buttecounty.net or at the following locations:

By Mail

ATTN: Butte County
Environmental Health
202 Mira Loma Drive
Oroville CA 95965

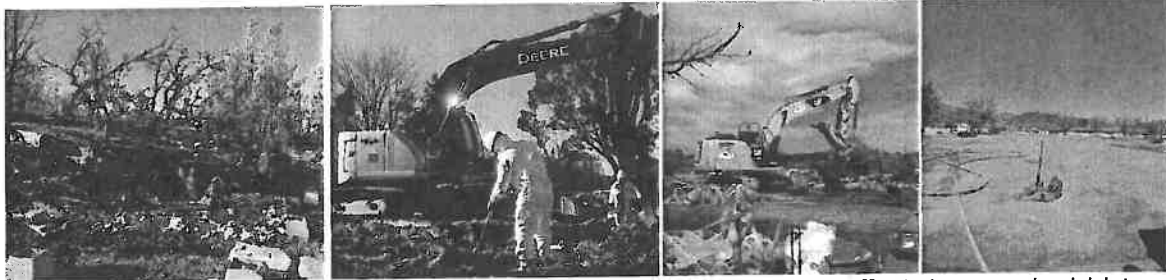
In Person

Disaster Recovery Center
Chico Mall
1982 E. 20th Street
Chico CA 95928

Right-of-Entry (ROE) Center
202 Mira Loma Drive
Oroville CA 95965
Phone: (530) 552-3155

What are the steps involved in Phase 2 of the state-managed program?

1. Site assessment and documentation
 - Conduct background soil sampling to establish cleanup goals for the project; identify and remove any remaining asbestos-containing materials
 - Measure and record foundation, structures, debris, utility infrastructure, and property-specific hazards
2. Debris removal
 - Remove, transport, and properly dispose all burnt debris, ash, and contaminated soil; recycle concrete and metal
 - Handle and track materials separately to ensure operational and fiscal accountability
3. Confirmation sampling
 - Collect multiple soil samples from cleared lot for independent testing and analysis by California-certified laboratories
 - Assess soil sample results (CalRecycle) to ensure cleanup goals are met; rescrrape soil from portions of the parcel as necessary
4. Erosion control measures
 - Implement storm water best management practices to control sediment runoff
5. Final inspection
 - Conduct final walk-through of the property (CalRecycle). Deliver Notice of Final Approval to the County for acceptance



From 2007 through today, CalRecycle has worked alongside 21 California communities to effectively manage local debris removal operations with full commitment to safety, integrity, and transparency.

What is removed from properties under Phase 2 of the Consolidated Debris Removal Program?

Wildfire debris, ash, metal, concrete, and contaminated soil.

What is not included under Phase 2 of the Consolidated Debris Removal Program?

The program does not include the removal of pools, driveways, and trees/fencing/outbuildings outside the ash footprint.

Who determines when the lot is clean and suitable for rebuilding?

Once CalRecycle ensures contractors have removed all debris, ash, metal, concrete, and contaminated soil, multiple soil samples from cleared lots are collected and tested at independent, California-certified labs. After CalRecycle directly verifies soil testing meets California state standards and cleanup goals, contractors will return to install erosion control measures. CalRecycle then delivers a notice of Final Approval to the County for acceptance, allowing homeowners to begin the rebuilding process.

When will crews be on my property?

Homeowners will receive notification 24 to 48 hours before the removal takes place. Owners do not need to be present but are welcome to view the cleanup on their property from a safe distance. Exclusion zones will be established surrounding the work area to ensure the safety of all involved.

Will debris removal crews be looking for code violations or other property infractions?

No. Debris removal crews are on properties to perform specific operations related to the removal of contaminated soil, ash/debris, concrete, and metals.

Who will pay for the debris removal?

All initial costs are paid by state and federal agencies. However, if property owners have insurance that specifically covers debris removal, owners must inform their local officials. To avoid duplication of benefits, homeowners may be required to remit a portion of their insurance claim payments specifically reserved for debris removal. Contact your insurance provider for specifics on your policy.

Note: Property owners may be able to first utilize debris removal insurance claim payments for debris removal work that is outside the scope of the program.

Where do I find answers to other questions I have about the debris removal program?

Send questions to debrisquestions@caloes.ca.gov or contact local representatives at the Debris Removal Operations Center (DROC) in your community:

Camp Fire DROC
2805 Esplanade, Chico, CA 95973
(530) 399-0434



ERP Mainpage

Wildfire Waste Removal

Off Highway Removals

Drug Lab Removals

Meth Lab Cleanup Program

HazMat Links

Enforcement & Emergency Response Program

CONTACT INFO:

Emergency Response Duty Officer
(800) 260-3972 or (916) 255-6504

Cal OES
(800) 852-7550

Wildfire Household Hazardous Waste Removal

The Department of Toxic Substances Control (DTSC) is available to assist local, state and federal agencies after major wildfires. Staff from DTSC's Emergency Response Program oversees contractors who remove household hazardous waste (HHW) and asbestos from burned structures and parcels. Examples of HHW include lead acid and household batteries; compressed gas cylinders; bulk pesticides, fertilizers and pool chemicals; paints, thinners and aerosol cans; asbestos siding, pipe insulation and tiles; and cathode ray tubes (CRTs) from televisions, computers and other electronic devices. The contaminated debris is cleaned up and contained as quickly as possible to minimize exposure to emergency personnel, the public, and workers involved in restoration efforts.



In 2017, DTSC launched a mapping tool that is designed both for emergency crews and public use. The data input by crews on the ground streamlines DTSC's cleanup of household hazardous waste and keeps the public updated after each day.



State Agency Sites:

Emergency Response and Disaster Preparedness

Dept of Industrial Relations

Department of Fish and Wildlife

Office of Emergency Services

CalTrans

Spill Prevention and Response

CAL FIRE

CalRecycle

Current Wildfire Recovery Projects (Camp, Woolsey, and Hill fires)

DTSC, with the assistance of the U.S. Environmental Protection Agency (EPA) and other local, state, and federal agencies, began to assess and remove household hazardous waste from fire-damaged properties as part of the interagency response to the **Camp Fire** in Butte County and the Town of Paradise (Northern California) and the **Woolsey** and **Hill** fires in Los Angeles and Ventura Counties (Southern California). DTSC and a team of federal, state and local agencies evaluated impacts of the Woolsey Fire on conditions at the Santa Susana Field Laboratory site and in communities around the site. This interim report summarizes work done to address concerns about the impact of the Woolsey Fire on SSFL and the surrounding communities.

The Department led efforts to remove HHW after the Thomas Fire in Ventura County in the Fall 2017 (HHW removed from 1,001 properties), the Carr Fire in Shasta County in July 2018 (1,171 properties), the Pawnee Fire in Lake County in July 2018 (21 properties) and the Klamathon Fire in Siskiyou County in July 2018 (60 properties).

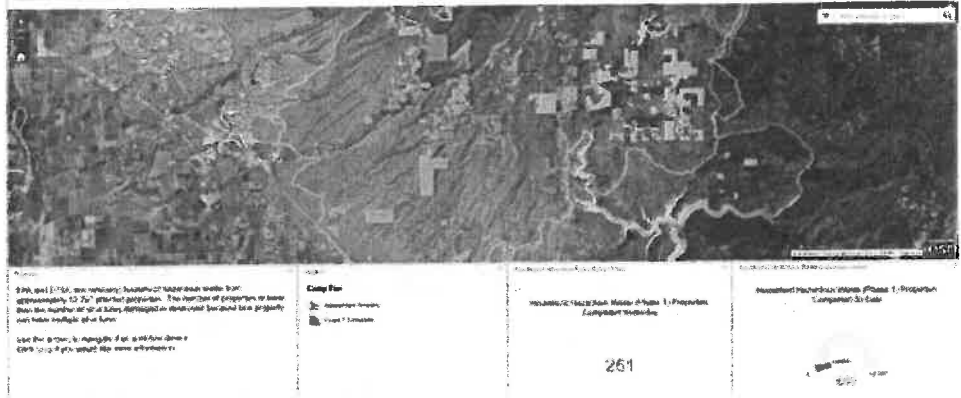
Wildfire Public Dashboards and Maps

DTSC's Public Dashboard mapping system provides critical information to crews on the ground. In addition, it displays the latest information regarding DTSC's cleanup process to keep the public informed.

Camp Fire Response, Butte County and the Town of Paradise

The Camp Fire Response Public Dashboard map (below) displays the total number of parcels impacted by the recent wildfires, the number of parcels assessed for household hazardous waste each day in Butte County and the Town of Paradise. **Click the image below to get more details and access the Public Dashboard map.**

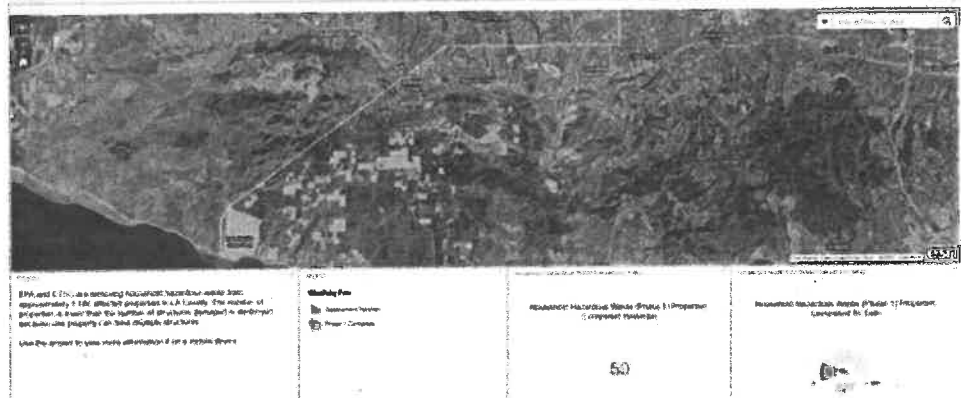
Camp Fire Response



Los Angeles (LA) County Recovers, Woolsey Fire

The LA County Recovers, Woolsey Fire Public Dashboard map (below) displays the total number of parcels impacted by the recent wildfires, the number of parcels assessed for household hazardous waste each day in LA County. Click the image below to get more details and access the Public Dashboard map.

LA County Recovers



Woolsey/Hill Fire Response, Ventura County

The Woolsey/Hill Fire Response, Ventura County Public Dashboard map (below) displays the total number of parcels impacted by the recent wildfires, the number of parcels assessed for household hazardous waste each day in Ventura County. Click the image below to get more details and access the Public Dashboard map.

Woolsey/Hill Fire Response



Past Wildfires

To view the Wildfire Public Dashboard Maps for previous fires, go to our Past Wildfires Public Dashboards page. The dashboard maps available are:

Wildfire Household Hazardous Waste Removal

- Mendocino Complex Fire (2018)
- Carr Fire (2018)
- Lake and Siskiyou County Fires (2017)
- Ventura Fires (2017)

Helpful Information (Fact Sheets)

- Emergency Guidance on Wildfires #1: Handling Ash, Debris and other Hazardous Materials from Burned Structures
- Emergency Guidance on Wildfires #2: Management Options for Expedited Collection of Hazardous Wastes from Burned Areas
- Guía de Emergencia en Incendios Forestales #1: Manejo de Cenizas, Escombros y Otros Materiales Peligrosos de Estructuras Calcinadas
- Guía de Emergencia en Incendios Forestales #2: Alternativas de Gestión para una Recolección Agilizada de Residuos Peligrosos de Zonas Calcinadas

Video

An unrelenting series of wildfires have continued to devastate portions of our State. View the video below to find out more about the work DTSC does after a major wildfire.



Recent Wildfire Coverage

Camp Fire, The New York Times: In California, Houses Burned. So Did the Toxic Chemicals They Contained.

In the charred footprint of each home in Paradise lurks an invisible and dangerous legacy of the Camp Fire: toxic chemicals released by the blaze. There may be radioactive isotopes from burned-up antique crockware, cupboards of incinerated household cleaners, and asbestos from old siding. Heavy metals, chemicals and biological contaminants left behind demand a cleanup of extraordinary scale, before any permanent return to Paradise is safe.

Camp Fire, Chico Enterprise-Record: Camp Fire: Crews begin largest wildfire debris cleanup in state history

Officials say they hope to finish the operation within 9-12 months, an aggressive target that will comprise hundreds of workers and coordination between the state Department of Toxic Substances Control, United States Environmental Protection Agency and Butte County Environmental Health.

Carr Fire, HBO's Vice News: What The Deadly Wildfires Raging Across California Left Behind

What The Deadly Wildfires Raging Across California Left Be...



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Agenda Item IX

ARTICLES OF INTEREST



**Unified Program
2019 Evaluation Schedule**

CUPA	EVALUATION DATES
City of Bakersfield Fire Department	September, 2018 – May, 2019
Kern County Environmental Health Services Department	October, 2018 – May, 2019
Merced County Health Department	November, 2018 – May, 2019
Roseville City Fire Department	December, 2018 – May, 2019
Fremont City Fire Department	January, 2019 – July, 2019
City of Hayward Fire Department	January, 2019 – July, 2019
Orange County Environmental Health	January, 2019 – July, 2019
Mendocino County Division of Environmental Health	February, 2019 – August, 2019
City of Santa Rosa Fire Department	February, 2019 – August, 2019
Plumas County Environmental Health	February, 2019 – August, 2019
County of Marin Department of Public Works Waste Management Division	March, 2019 – September, 2019
Colusa County Department of Health & Human Services	March, 2019 – September, 2019
Gilroy City Fire Department	March, 2019 – September, 2019
Trinity County	April, 2019 – October, 2019
Glenn County Air Pollution Control District	April, 2019 – October, 2019
Sierra County Human Services Health Department	May, 2019 – November, 2019
Imperial County Department of Toxics Substances Control	May, 2019 – November, 2019
County of Los Angeles Fire Department	May, 2019 – November, 2019

CUPA	EVALUATION DATES
Placer County Environmental Health	June, 2019 – December, 2019
City of Santa Monica Fire Department	June, 2019 – December, 2019
City of Anaheim Fire Department	June, 2019 – December, 2019
Shasta County Department of Resource Management Environmental Health Division	July, 2019 – January, 2020
El Dorado County Department of Environmental Health	July, 2019 – January, 2020
Livermore-Pleasanton Fire Department	July, 2019 – January, 2020
Lake County Environmental Health	August, 2019 – March, 2020
City of Los Angeles Fire Department Bureau of Fire Prevention & Public Safety	August, 2019 – March, 2020
Santa Fe Springs City Fire Department	September, 2019 – April, 2020
Butte County Division of Environmental Health	September, 2019 – May, 2020

Your Source for All Things Solid Waste—I AM SWANA News



I Am SWANA News

[SWANA.org](http://swana.org)
[MySWANA](#)
[Membership](#)

In This Issue:

February 2019

[SWANA Training](#)
[NAWTEC](#)
[Tech Division](#)
[SWANApalooza Recap](#)
[Industry Watch](#)

Industry Suffers Unprecedented Number of Fatalities in January

SWANA has recorded 22 solid waste-related deaths during the first month of 2019 in the U.S. and Canada, an unprecedented run of fatalities. Eight workers died on the job in January, and 15 members of the public were killed in collisions with waste vehicles. January 2019 now unseats the previous worst month for fatalities, January 2018, when 19 people were killed. It should be noted that virtually none of the January 2019 fatal incidents were due to snow or winter weather driving conditions.

Aside from the sheer number of fatal incidents in one month's time, it is notable that four of the worker deaths occurred at landfills. For all twelve months of 2018, SWANA only recorded nine worker fatalities at landfills. Additionally, four of the 22 incidents in January occurred in Canada, compared to four in the entire country for all of 2018.

Identifying that we have a problem is only the first step, as we now need to come together as an industry to put a stop to this epidemic of tragic events. SWANA provides free resources on its [Safety Matters webpage](#), which contains valuable tools for both collection and post-collection. Our recent webinar, [Improving Collection and Post-Collection Safety Practices](#), is now available for sale as a recording on SWANA.org. This offers a great opportunity for a team to refresh its safety training. SWANA will also host numerous safety events this year and the issue will be discussed at SWANApalooza in Boston, Massachusetts, February 25-28, as well as at SWANA's [7th Safety Summit](#) at WASTECON[®] in Phoenix, Arizona, October 21-24.

Everyone is urged to take the SWANA Safety Pledge to demonstrate their commitment to making the rest of 2019 a safer year. Together, we must consider worker, customer, and public safety in every decision that we make.

Accidents in the News

Through January 31

Wolcott, NY – A 77-year-old man died after driving his car into a garbage truck that was stopped for collection. No one was in the truck at the time of the crash. MORE

Beckley, WV – A garbage truck was turning and collided with a Jeep Wrangler travelling north, killing the 35-year-old man driving the Jeep. MORE

Oskaloosa, KS – A 59-year-old worker was operating a tipper at a landfill when he was crushed to death between a backing semi-trailer and the dock. MORE

Midlothian, TX – An SUV ran into the back of a garbage truck headed in the same direction. The driver of the SUV was killed. MORE

Westminster, CA – A 40-year-old motorcyclist was struck and killed after trying to pass a garbage truck on the right-hand side. MORE

Denton County, TX – A tractor-trailer and a garbage truck collided on a highway, causing the garbage truck to tip over and killing the driver. MORE

Longmont, CO – A 39-year-old driver was turning left at a stop sign when he was struck and killed by a garbage truck. MORE

Vancouver, BC – A garbage truck was struck by a train at a railroad crossing, killing the truck driver. MORE

Washington County, IL – A 51-year-old man was killed after he failed to stop at a stop sign and his vehicle was struck by a garbage truck at the intersection. MORE

New Orleans, LA – A 52-year-old spotter was killed after being struck by a bulldozer and then buried under debris. The worker went missing and was later found by a search and rescue team in the landfill. MORE

Lewisburg, TN – An employee at a landfill was struck and killed by a dump truck while assisting a disabled motorist near the landfill entrance. [MORE](#)

Stockwell, IN – A vehicle crashed into the back of a stopped garbage truck, killing the 27-year-old driver of the car. A worker on the back was able to jump out of the way prior to the collision. [MORE](#)

Toronto, ON – A woman sleeping on a grate was struck by a garbage truck reversing down an alleyway. [MORE](#)

Daly, CA – A 58-year-old garbage truck driver struck a parked car and then ended up outside of the truck, becoming crushed between the vehicles. [MORE](#)

Bronx, NY – A 28-year-old police officer who had just come off of duty drove head-on into an NYC Parks Department garbage truck. [MORE](#)

Toronto, ON – A garbage truck making a right turn struck and killed a man when he fell onto the roadway and was hit by the truck. [MORE](#)

Jacinto City, TX – A man crossing on a red light at an intersection was struck and killed by a garbage truck. [MORE](#)

Montreal, QC – A 79-year-old woman was struck and killed by a garbage truck that was exiting an alley and turning. [MORE](#)

Morton, WA – A vehicle crossed the center line and struck a garbage truck head-on, killing the 63-year-old vehicle driver. [MORE](#)

Mariposa, CA – An 83-year-old male driver was killed after colliding head on with an oncoming garbage truck after crossing the double yellow center line on a curve. [MORE](#)

Columbus, GA – A garbage truck transporting tree limbs and yard waste collided with another vehicle, killing the 63-year-old driver of the car. [MORE](#)

Fort Worth, TX – A 31-year-old woman was killed at a MRF when a 1-ton bale of recycled material fell on her. [MORE](#)

OSHA Round-Up: Electronic Recordkeeping, Civil Penalties & Re-Nomination

Electronic Recordkeeping Change

The U.S. Occupational and Health Administration (OSHA) has rescinded parts of its electronic recordkeeping rule effective January 25, 2019. Establishments with 250 or more employees will no longer need to electronically submit information from OSHA Forms 300 and 301, only maintain them onsite. This also applies to establishments with 20 to 249 employees in certain industries with historically high occupational injury and illness rates.

Additionally, OSHA is also amending the recordkeeping regulation to require covered employers to electronically submit their Employer Identification Number with their information from Form 300A.

In response to this, several public health advocacy groups have filed suit to stop the change. They claim that "... OSHA has failed to provide any good reason for reversing itself." In the recent rulemaking, OSHA stated that the amendment was necessary due to issues of worker privacy that outweighed "incremental benefits" that would have resulted from collecting the data.

Civil Penalties Increase

The U.S. Department of Labor has announced an increase of about 1% to civil penalty amounts issued by its agencies, including OSHA.

Type of Violation	New Maximum
<ul style="list-style-type: none"> • Serious • Other-Than-Serious • Posting Requirements 	\$13,260 per violation
<ul style="list-style-type: none"> • Willful or Repeated 	\$132,598 per violation
<ul style="list-style-type: none"> • Failure to Abate 	\$13,260 per day beyond the abatement date

The increase is required by the Federal Civil Penalties Inflation Adjustment Act and applies to penalties assessed

after January 23, 2019.

OSHA Head Re-Nominated

Scott Mungo, the Administration's nominee to head OSHA, has been resubmitted to the Senate in order to fill the position, which has yet to have a permanent leader during the current Administration. Mungo, a former vice president of safety, sustainability and vehicle maintenance at FedEx Ground, was first nominated on Oct. 27, 2017. In the interim, Loren Sweatt is serving as acting assistant secretary of Labor for OSHA.

Mungo will first need approval from the Senate Health, Education, Labor and Pensions Committee. A committee hearing at which he was to be considered on February 5 was postponed. After approval by the committee, his appointment will then need to be approved by the full Senate. Unlike other presidential appointees, Mungo's nomination has not garnered widespread opposition.



BRIEF

Waste Connections wins appeal over \$5.1M landfill penalty in California

Cole Rosengren

By

Published Feb. 21, 2019

Dive Brief:

- Waste Connections has successfully appealed a 2017 enforcement order from the Los Angeles County Department of Public Works involving the Chiquita Canyon Landfill in California. The order would have cost the company \$2.4 million in unpaid solid waste fees and \$2.7 million in administrative penalties.
- This appeal stemmed from a dispute over how much inbound clean soil Chiquita Canyon was reporting and how much material the landfill was directing toward beneficial reuse applications between 2011-2014. The county maintained that no more than 20% of all material being received could count toward beneficial reuse, and said 1.6 million tons would retroactively be subject to solid waste fees regardless of final use.
- Following a Sept. 2018 administrative hearing, the presiding officer found Chiquita had never disposed of clean soil and that the DPW lacks the authority to "reclassify clean soil as excessive beneficial reuse material, making it waste and subject to the fee." The officer also found the 20% ratio to be "arbitrary."

Dive Insight:

According to the hearing officer's Feb. 20 decision, the dispute started with a routine audit in 2015 to ensure Chiquita had been paying the correct amount of solid waste fees. The audit initially came back clear, but was later rescinded after Los Angeles County questioned the landfill's use of clean soil and the parties disagreed whether it had to be reported or not. The landfill agreed to begin reporting soil tonnage, despite not being required to do so by the state, at which point the county took its position seeking retroactive fees.

Waste Connections says it uses this clean soil to beneficial ends, including roadbeds, erosion control, slope building and alternative daily cover.

"The company is pleased with the decision and appreciates the close attention of the hearing officer to the evidence and law," said James Little, senior vice president for engineering and disposal, in a statement. "We're proud of how we can repurpose large amounts of soil, C&D, green waste and other beneficial reuse material to make this a best in class landfill. We value our relationship with the regulators in Los Angeles County and look forward to continuing to work with them to help Chiquita Canyon meet the needs of its many municipal and commercial customers in the Los Angeles area."

Los Angeles County did not respond to a request for comment as of publication.

While the details may be site-specific, the results are being touted as a potential model for questions about beneficial reuse elsewhere.

"It has national importance in terms of the vindication of beneficial reuse materials, which all landfills make use of," James Slaughter, lead counsel for Waste Connections in this case and a principal at Beveridge & Diamond, told Waste Dive. "...Chiquita used a significant amount of beneficial reuse material, providing a service to businesses homeowners and municipalities that had

to dispose of it."

Chiquita Canyon is currently the subject of a lawsuit filed by Waste Connections against Los Angeles County over the terms of its July 2017 conditional use permit, which it considers onerous. While the county's enforcement order came in Sept. 2017 after the suit had been filed, Slaughter cautioned against making any inferences about the timing.

"This was a discrete enforcement effort by the county regarding the solid waste fee," he said. "The conditional use permit that was issued in July 2017 is still being challenged in court."

That conditional use permit case is scheduled to go to trial in June. A separate suit over a planned landfill expansion, filed by citizen groups against both the landfill and the county, is also ongoing.

Waste From Pot Production Could Hinder California's Environmental Goals

Marijuana plants, such as these in Glen Ellen, Calif., are now considered organic

waste.
Post/Getty Images)

(Mason Trinca/The Washington

California's recycling department is tackling the state's organic waste buildup in landfills one food scrap, tree branch and cannabis leaf at a time.

Since cannabis waste – including leaves, trim, stalks, stems and root balls – was confirmed as organic instead of hazardous waste in the state's recently approved industry regulations, cannabis greens are a component of California's organic waste pileup – and subject to the state's efforts since 2014 to cut its volume in landfills by 50 percent by 2020 and 75 percent by 2025.

"Because (cannabis) has been illegal and in this gray area, people have a hard time understanding how much biomass is there," says Isaac Nichelson, CEO of Circular Systems, a Los Angeles-based company that's working to reduce organic waste.

There are no official numbers on how much waste cannabis businesses generate from what industry members estimate to be 50,000 to 70,000 licensed and unlicensed cultivators in California, but Garrett Rodewald, co-founder of Gaiaca, a cannabis waste management company with clients throughout the state, says a typical, mid-sized manufacturer will produce 250 to 500 pounds of waste a day.

Rodewald started his company in 2016 as a result of cultivators not understanding how or having the time to correctly dispose of their waste, he says. Since inception, he's collected a million pounds of waste from his clients.

Agricultural experts agree that the current mass of waste from the cannabis industry isn't as significant as what is generated by more mainstream crops, such as broccoli or lettuce, but the growth estimates could easily play catch-up. The California legal market alone is estimated to increase by 87 percent in the next four years, according to BDS Analytics, a market research firm:

"It's such a massive and rapidly growing sector," says Nichelson, from Circular Systems. "This will be far and away the largest agricultural commodity in the next couple of years."

Organic waste makes up two-thirds of California's landfills, with 40 million tons being disposed of each year.

When organic matter decomposes, it releases methane, a greenhouse gas that's more potent than carbon dioxide and a major contributor to global warming, according to California's Department of Resources Recycling and Recovery (CalRecycle).

California recycles roughly 5 million to 6 million tons of organic waste through composting and anaerobic digestion. Currently, the state doesn't have the infrastructure – a \$2 billion to \$3 billion cost that will require partnerships with the private sector – to accommodate the 20 million tons of incoming green waste needed to hit the state's recycling targets, says Lance Klug, spokesman for CalRecycle, the agency responsible for cooperation in the statewide effort.

On Jan. 1, CalRecycle phased in regulations for business that generate weekly more than four cubic yards of organic waste, roughly the size of 48 kitchen-sized trash bags, to compost or practice another recycling method such as anaerobic digestion, which uses organic matter to produce renewable energy and fuel.

The regulations are part of the mandatory Commercial Organic Waste Recycling Law, which was put into place by then-Gov. Jerry Brown in 2014 to help the state meet its aggressive waste diversion goals. Current reduction targets are based on the 2014 levels, when an in-depth assessment was conducted to show how much and what kind of waste is dumped into landfills.

This year, CalRecycle is collecting updated numbers from waste collection sites to determine where levels stand.

If the 2020 reduction target isn't met, a larger range of businesses will be required to recycle.

"We're on the front end of all of this," Klug says. "It's going to require actions from every resident, business and municipality in the state."

To monitor the state's progress, CalRecycle will conduct reviews of local jurisdictions every two to four years. Those jurisdictions are also required to submit an annual report on recycling progress. If necessary, CalRecycle will step in to assist with the waste diversion process, Klug says.

When the goals are met, the existing landfills will be able to last an additional 40 to 80 years, he says.

Since 2014, CalRecycle has awarded more than \$100 million through its Organics Grant Program to jurisdictions and businesses to further organic recycling projects, mostly targeting food waste reduction and building infrastructure.

Authorities Raid Denver-Area Homes



Now, the cannabis industry is looking to the state for funding.

Circular Systems and its partner, Restalk, a California company that repurposes cannabis plant waste into paper and packaging, are applying for several waste reduction state grants to build a biorefinery that converts varied cannabis and hemp byproducts into high-value fiber.

The companies are working with the University of California—Davis Division of Agriculture and Nature Resources to configure the logistics of the Sacramento-area biorefinery, Nicholson says. The project would require \$3 million to \$5 million in startup costs and would be community owned and operated.

CalRecycle wouldn't give any details on this project at this time, but Klug says a project like this that promotes a closed-loop economy where waste is regenerated, is the ultimate goal of the state's recycling efforts.

"(It's about) turning our waste stream into a supply stream," he says.

Currently, the cannabis industry has a few options for recycling waste as long as it isn't combined with any hazardous or toxic material: composting on-site, hauling it to a composting facility or having a cannabis waste management company, such as Gaiaca, dispose of it.

However, because of the various compliance rules – for example, making the cannabis waste unrecognizable and unusable by mixing it with other organic materials – from three different licensing authorities that oversee California's cannabis industry, cultivators, processors and some composting facilities want the responsibility off their hands, says Rodewald, from Gaiaca.

"The people in the waste industry are nervous and the growers are nervous," says Nick Lapis, director of advocacy for Californians Against Waste, a nonprofit dedicated to preventing pollution and conserving resources. "Almost all of them have a different policy from each other," he says of the varying levels of regulations, ranging from waste collection sites, the cannabis licensing agencies and each municipality's recycling standards.

Autumn Shelton, CFO of Autumn Brands, a 4-acre cannabis farm in Santa Barbara County – which holds the largest number of licensed cannabis cultivators in the state – sends her organic waste out through two separate companies: Restalk, the cannabis repurposing company that also offers free pickup services, and a local green waste company.

"We are all just trying to follow what the regulations are stating," says Shelton, who notes that the amount of labor involved and space needed to compost onsite isn't economical for her business.

When Southern California-based EcoWaste Services added cannabis to its organic waste management business last year, the waste was rejected by eight of 10 composting facilities throughout the Pasadena and Burbank areas, says co-founder Arman Zeytounyan.

Now, Zeytounyan and his team are building an internal system to recycle the 30 thousand pounds of waste the company picks up a month and circle the regenerated waste back into the cannabis industry.

Zeytounyan says education is the key to managing the organic waste of any industry, and a good place to start is by setting a trend.

People will ask, he says, "If the cannabis industry is doing this, why isn't the restaurant industry doing this?"

California proposes phaseout of single-use plastics by 2030

Jeff Daniels



Fred Dufour | AFP | Getty Images

California already has placed curbs on plastic items such as straws and bags — and this week legislation was introduced to phase out single-use plastic food containers and other packaging that isn't recyclable or compostable.

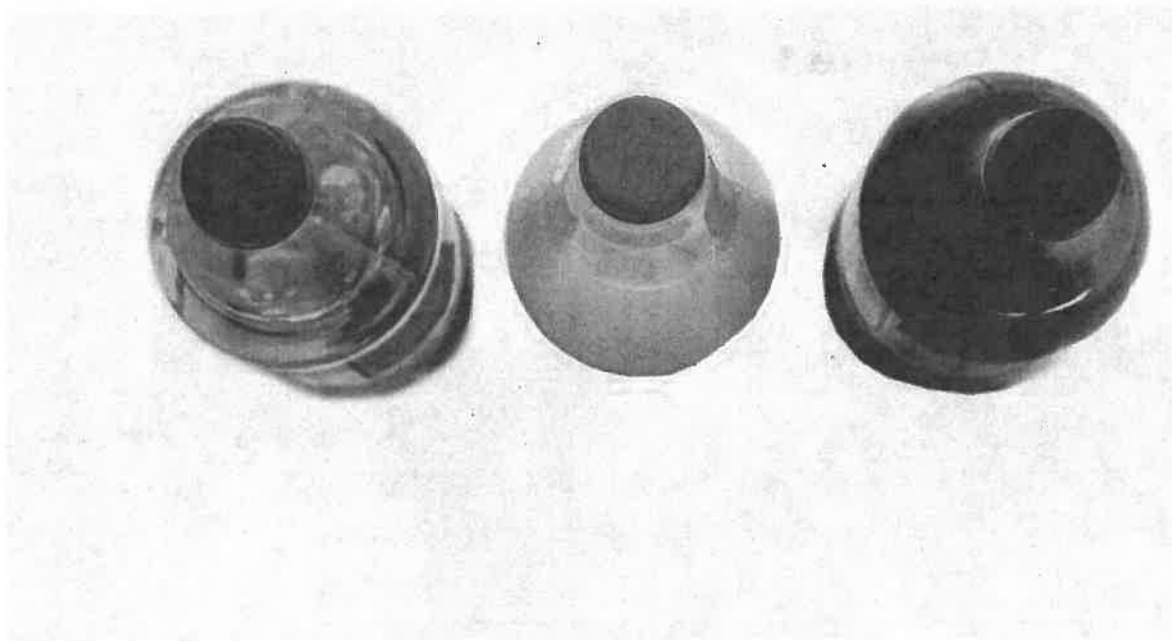
The proposed measure also would apply to polystyrene foam containers used for takeout meals, as well as plastic detergent bottles. [Assembly Bill 1080](#), introduced Thursday, would phase out the single-use plastics by 2030 and follows concerns about [plastic debris](#) going in oceans and on beaches.

If the legislation becomes law, some experts believe it could lead to other states taking similar steps. In 2014 California became the first state with a single-use plastic bag ban, they noted, which led to at least four other states introducing similar measures.

“What we do in California tends to spread across the country,” said Mark Murray, executive director of Californians Against Waste, a nonprofit environmental group. “If manufacturers have to comply with this rule in California, they probably are going to do this across the country.”

If passed, Murray said the legislation would be a “win” for companies making or marketing two common recycled plastic materials: polyethylene terephthalate (or PET) and high-density polyethylene (HDPE). PET is commonly used for plastic bottles that contain water or soda, while

HDPE is used in milk jugs, shampoo bottles, household cleaning bottles and in some trash bags and cereal liners.



Polyethylene terephthalate is a recyclable plastic commonly used for bottles that contain water or soda.

Guven Polat | iStock | Getty Images

“For some plastic manufacturers who have invested in recycling and closed-loop recycling, this is going to be a boon,” Murray said. “The losers are going to be polystyrene, polyvinyl chloride and polypropylene, because those are the ones that aren’t being recycled.”

Proponents of the legislation say it could help reduce the problem of plastic ending up along beaches and in oceans and rivers. The issue has been highlighted by reports of whales and other marine life found with plastic items in their stomachs.

“We have to stop treating our oceans and planet like a dumpster,” said Assemblywoman Lorena Gonzalez, D-San Diego, who authored AB 1080. “Any fifth-grader can tell you that our addiction to single-use plastics is killing our ecosystems.” She added, “We have technology and innovation to improve how we reduce and recycle the plastic packaging and products in our state. Now we have to find the political will to do so.”

At the same time, backers of the legislation argue that discarded plastics has become a bigger concern in the past year since China started turning away plastic waste beginning in 2018.

We have technology and innovation to improve how we reduce and recycle the plastic packaging and products in our state. Now we have to find the political will to do so.

Assemblywoman Lorena Gonzalez

D-San Diego, who authored AB 1080

Gonzalez teamed up with state Sen. Bill Allen, D-Santa Monica, who in December introduced

Senate Bill 54 in an attempt to reduce the amount of single-use plastic waste that ends up polluting waterways and other places.

According to Allen, the plastic waste often breaks down into toxic chemicals, including some considered cancer-causing. Plastic can take hundreds of years to biodegrade in the ocean, according to research from the National Oceanic and Atmospheric Administration.

“At the Plastics Industry Association, we believe uncollected plastics do not belong in our oceans or waterways,” said Scott DeFife, vice president of governmental affairs for PIA, a D.C.-based trade association. “We share the goal of increased recovery in order for plastics to be used at their highest and best potential.”

The American Chemistry Council, which represents leading makers of plastic resins, last May set a goal of 100 percent of plastic packaging being recycled, reused or recovered by 2040. ACC also advocates 100 percent of plastic packaging be recyclable or recoverable by 2030.

In 2014, California passed legislation to curb the use of single-use plastic bags at grocery stores. It mandated that retailers charge consumers for reusable plastic bags or paper bags.



A bartender at Wipeout Bar & Grill in San Francisco makes cocktails that have paper straws.

Justin Sullivan | Getty Images

Last year the Golden State became the first in the nation to restrict the use of plastic straws in restaurants with the passage of Assembly Bill 1884. The state also passed Senate Bill 1335, legislation reducing the use of non-recyclable takeout food containers.

“Last year we worked closely with Sen. Allen on his SB 1335, a bill that we ultimately supported which created new requirements that food-service packaging used at state facilities be recyclable or compostable,” said Tim Shestek, senior director of state affairs for ACC. “We’d welcome the opportunity to work with Sen. Allen and all stakeholders on efforts to recycle and recover more plastic material so that it doesn’t become waste or ocean litter.”

However, some contend the state should stay out of the business of restricting plastics, whether straws or packaging. They also claim a small percentage of plastics in the ocean are coming from the United States.

“It won’t change anything, and nobody will see a difference,” said Kerry Jackson, a fellow at the Center for California Reform at the Pacific Research Institute, a conservative think tank based in San Francisco. “This is a freedom issue as well. [Companies] should be able to decide what they’re going to give to customers, and customers should be able to decide what they want to get.”



NEED TO KNOW



Construction Begins at Anaergia's Rialto Bioenergy Facility

The facility will convert 700 tons per day of food waste and 300 tons per day of biosolids into renewable natural gas, electricity and fertilizer.

Waste360 Staff | Dec 13, 2018

Anaergia, Inc. announced the start of construction at the Rialto Bioenergy Facility (RBF).

The RBF will help address two pressing waste management issues in Southern California: food waste diversion from landfills and biosolids management. The RBF will convert 700 tons per day of food waste and 300 tons per day of biosolids into renewable natural gas, renewable electricity and Class A organic fertilizer. When construction is completed in 2020, it will be the largest food waste diversion and energy recovery facility in North America, according to the company.

The RBF will provide the Southern California region with a more efficient, local solution for the diversion of 300,000 tons of organic waste per year. Using Anaergia's anaerobic digestion technology to extract energy from the organic material, this facility will produce the equivalent of 13 megawatts of clean energy per year. The net carbon dioxide emissions reduction will be approximately 220,000 metric tons annually, which is the equivalent of taking 47,500 cars off the road, the company noted.

The facility is in Rialto, a city about 50 miles east of Los Angeles, near the center of the Agua Mansa Industrial Corridor, an area zoned for heavy industry.

Anaergia is building the RBF in collaboration with Waste Management, Republic Services, Southern California Edison, Anaheim Public Utility, Southwest Gas Utility, City of Rialto, the Sanitation Bureau of the City of Los Angeles and the Sanitation Districts of Los Angeles County and of Orange County. The RBF is co-funded by the California Energy Commission, U.S. Department of Energy, CalRecycle, State of California and significant private investment.

"We are proud to be working with industry leaders in the solid waste, wastewater and renewable energy industries to build one of the largest organics recycling facility in the world serving the Southern California

region. Our new plant will demonstrate a truly sustainable and replicable way to meet the state's organics diversion and recycling need," said Andrew Benedek, CEO of Anaergia, Inc., in a statement.

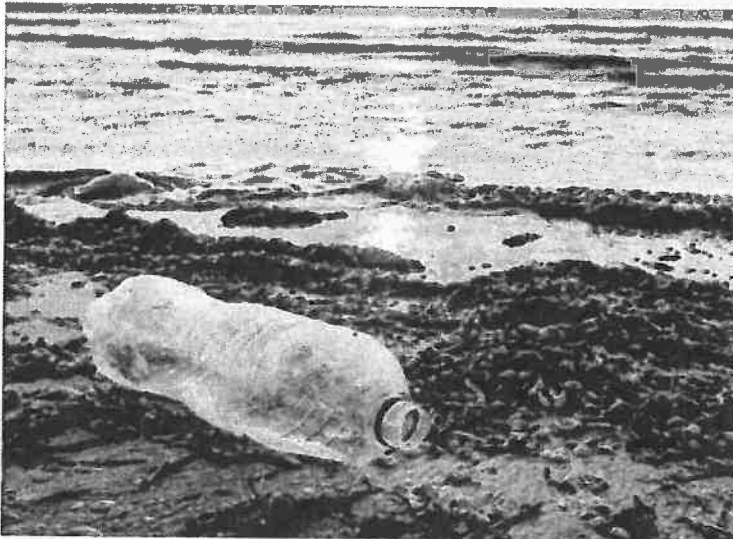
Source URL: <https://www.waste360.com/waste-energy/construction-begins-anaergia-s-rialto-bioenergy-facility>

■ NEWS & VIEWS

INDUSTRY INVESTMENT

Recycling leaders respond to plastic industry's \$1B pledge

By Colin Staub



Resin and packaging giants last month committed \$1 billion over the next five years to "end plastic waste." While recycling stakeholders say they are encouraged by the dollar figure and companies involved in the effort, they also want to ensure recycling remains part of the solution.

"I just want to raise our hand and say, don't forget us over here," said Steve Alexander, executive director of the Association of Plastic Recyclers (APR). "We're the solution to your problem at the end of the day. If you can capture it, we can recycle it."

KEEPING NORTH AMERICA IN FOCUS

The Alliance to End Plastic Waste, a new group that was announced Jan. 16, plans to focus its resources on developing waste collection infrastructure, innovating in recycling and product design, educating consumers about waste, and cleaning up plastic in the environment. It hopes to boost the dollar amount behind the project to \$1.5 billion in the coming years by bringing more entities on board.

Founding members include resin and chemical producers, consumer goods companies, waste management providers and others. The effort counts Berry Global, Chevron, Dow, ExxonMobil, LyondellBasell, Procter & Gamble, Shell, Suez, Total, Veolia and others among its membership.

In its initial announcement, the Alliance noted some of its early work will target Southeast Asia because most marine debris enters waterways in that region. But recycling stakeholders noted that materials recovery focus – and funding – is needed across the globe.

Nina Goodrich, executive director of the Sustainable Packaging Coalition (SPC), agreed that marine debris is a key component of addressing plastic waste, because ocean plastics have such a major global impact.

"That said, I also think we need to address collection and recycling of plastics films and pouches in the U.S.," she added. "I am very afraid that we may go backwards in recycling, not forward, in the

U.S. This would hurt investment in new innovative technologies and future competitiveness."

Alexander of APR added there are significant infrastructure requirements in Southeast Asia and other regions. But he added, "Let's not make the assumption that there aren't infrastructure needs in North America. I'm heartened by the fact that the announcement indicates they'll be working with large urban areas on solid waste infrastructure, I think that's particularly important."

It's also true that a strengthened plastics processing and remanufacturing system in North America can help reduce the amount of material that could become pollution elsewhere. For instance, plastic exports from the U.S. to Southeast Asian nations skyrocketed in the first part of 2018, largely driven by the loss of China as a downstream destination for scrap materials.

DIFFERENT FROM PAST PROJECTS?

The Alliance joins a handful of previous and existing plastic waste reduction projects with similar goals, and in some cases, similar scope.

For example, in 2017 the Indonesian government pledged up to \$1 billion annually to reduce

plastic waste. And numerous companies, some of which are part of the Alliance, have made commitments to reduce single-use packaging and increase recyclability over the years.

There are also a variety of existing initiatives focused on marine debris reduction, including Project STOP in Indonesia and the Closed Loop Ocean project that evolved into Circulate Capital, which is looking to leverage investment dollars to drive solutions.

But recycling industry stakeholders don't see problems with multiple efforts targeting plastic waste in different ways.

"In the case of the Alliance, there are many more companies joining, so we hope this can be an additional push to a much-needed effort," said Pablo Leon, Asia manager for Fosiripe S.L., a major Spanish broker of recovered plastics.

And the inclusion of an array of interests in the Alliance has the potential to push this new initiative beyond the capabilities of previous efforts.

"What's different to me in this announcement is the role of the brand owner as a leader," Alexander said. "They're really the face of a lot of the products at the end of the day," Alexander said. "That would separate it for me, in terms of expanding from the normal focus."

Goodrich pointed to the number of chemical and oil companies involved in the effort. It's "an important significant change," she said. "They are now part of the conversation."

VARIED CRITICISM

In the wake of its announcement, the Alliance received speedy criticism from a number of environmental groups. Most of the negative reaction focused on the involvement of major chemicals companies and virgin plastic producers – and the conflict of interest they might bring to a waste reduction initiative.

Break Free From Plastic, a coalition of several plastics reduction advocacy organizations, sharply criticized the effort as an effort by plastic interests "to preserve their ability to produce cheap single-

INDUSTRY INVESTMENT (CONTINUED)

use plastics."

In addition, criticism from European environmental organization Recycling Network noted that the major companies behind the Alliance are also planning to spend billions to expand virgin plastics production.

Alexander said he didn't altogether agree with those assessments, arguing that plastics and packaging producers have realized that they need to make fundamental shifts.

"I think companies recognize that they have to change the way they've been doing business," he said.

Alexander also noted that because the Alliance is receiving so much publicity, member companies are going to be "monitored very aggressively in terms of what their commitments are and what they're able to achieve."

Leon rejected the idea that it's problematic to have virgin plastics companies and chemical producers leading a charge on waste reduction.

"On the contrary, we think that virgin plastics producers have realized that their products can have a downside if they are not properly disposed, and they are taking action about that issue, so we see this as a great step," Leon said.

But he added that materials recovery leaders need to have a voice in the development. "We hope that more recyclers are welcome to join this Alliance in the future and share their expertise, because they look a bit misrepresented in the initial membership list," Leon said.

'ESSENTIALLY GREENWASHING'

Not all recycling stakeholders have praised the approach of the Alliance, however.

Ted Siegler, a longtime waste and recycling consultant with DSM Environmental, said that although \$1 billion is a figure that grabs attention, it falls far short of the needed investment to move the needle on plastic waste worldwide.

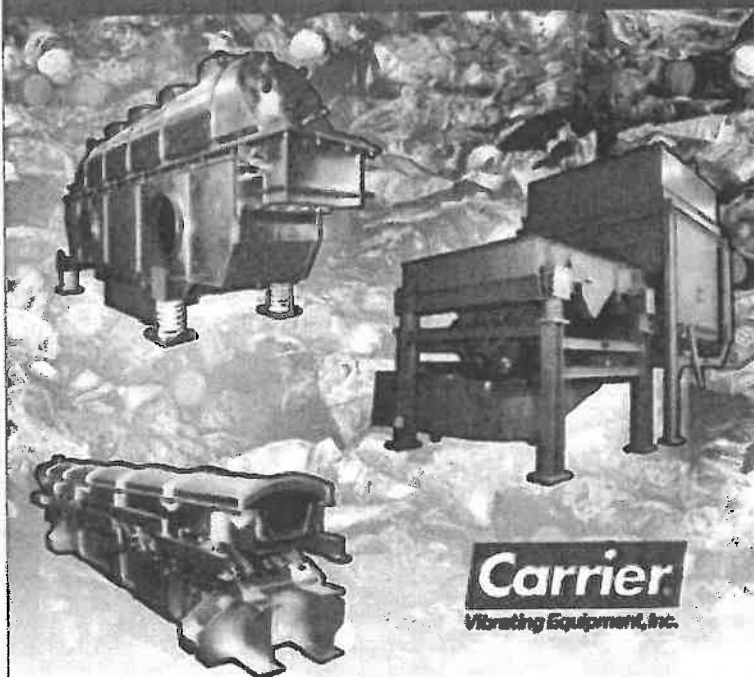
"I think the amount is essentially greenwashing," he said, adding that it's "\$1 billion spread over five years and spread over 28 incredibly profitable companies."

He cited World Bank figures showing that governments worldwide spend \$200 billion per year on solid waste management. Siegler has in the past proposed a small tax on plastic resin sales that he says would raise about \$6 billion per year to address plastic litter problems.

"That is the order of magnitude it would take to begin to make a difference," Siegler said. ■

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DoE Launches US's First Lithium-Ion Battery Recycling R&D Center

By Ben Messenger

To further its goal of moving toward closed-loop recycling for lithium-ion batteries, the U.S. Department of Energy has launched a research center, ReCell, at the Argonne National Laboratory.

The use of lithium-ion batteries has surged in recent years, starting with electronics and expanding into many applications, including the growing electric and hybrid vehicle industry. But the technologies to optimise recycling of these batteries has not kept pace.

It is hoped that the launch of the U.S. Department of Energy's (DOE) first lithium-ion battery recycling center, will help the US grow a globally competitive recycling industry and reduce our reliance on foreign sources of battery materials.

"The ReCell Center will help expedite the pursuit to profitable lithium-ion battery recycling," explained Jeff Spangenberg, director of the ReCell Center.

Daniel R Simmons, Assistant Secretary of DOE's Office of Energy Efficiency and Renewable Energy (EERE) added: "ReCell brings our national laboratories, the private sector and universities together to develop advanced technologies that safely and cost effectively recycle lithium-ion batteries. This center will create jobs and create a national supply of lithium-based battery materials, as well as spur the adoption of an affordable electric vehicle economy."

To spur development of new recycling techniques and new battery designs, DOE's Vehicle Technologies Office (VTO) within EERE dedicated the ReCell Center today at DOE's Argonne National Laboratory.

The ReCell Center is a collaboration between Argonne; the National Renewable Energy Laboratory (NREL); Oak Ridge National Laboratory (ORNL) and several universities including Worcester Polytechnic Institute, University of California at San Diego and Michigan Technological University.

The center collaborators will focus on four key research areas to enable profitable lithium-ion battery recycling for industry adoption:

- A direct cathode recycling focus will develop recycling processes that generate products that go directly back into new batteries without the need for costly reprocessing;
- A focus to recover other materials will work to create technologies that cost effectively recycle other battery materials, providing additional revenue streams;

- Design for recycling will develop new battery designs optimized to make future batteries easier to recycle; and
- Modeling and analysis tools will be developed and utilized to help direct an efficient path of R&D and to validate the work performed within the center.

For more on the project don't miss the next print issue of Waste Management World. Subscribe [HERE](#)

Read More

Call2Recycle Publishes Top 10 States for Battery Recycling

Call2Recycle, the US's first and largest consumer battery recycling program, chose National Battery Day to reveal 2018 top 10 battery recycling states based on program participation.

IN DEPTH: Lithium Battery Recycling - The Clean Energy Clean Up

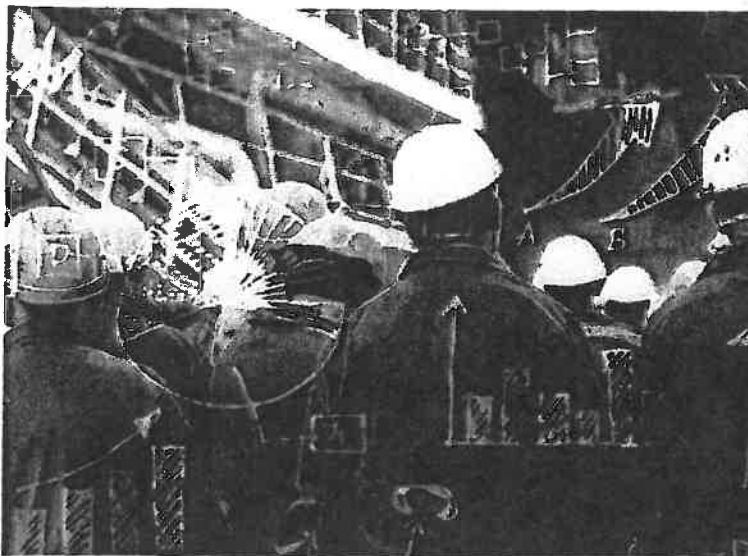
With their increasing use by the automotive industry, the need to improve the recycling of lithium-ion batteries is becoming critical.

The Lithium Battery Recycling Challenge

Increasing oil prices, demand for urban vehicles, megacities and focus on sustainable transportation have kickstarted a substantial trend towards automotive electrification such as hybrids and electric vehicles (EVs). Estimates suggest that by 2020, EVs are likely to account for more than 7% of the global transportation market.

Efficiency through empowerment - E-Scrap News

Rafael Reveles



E-scrap processors and refurbishers can implement lean manufacturing strategies to hand more responsibility to individual employees and create holistic improvements across the processing line. Here is a step-by-step look at leveraging lean ideas to maximize engagement and productivity.

This article originally appeared in the Fall 2018 issue of E-Scrap News. [Subscribe today](#) for access to all print content.

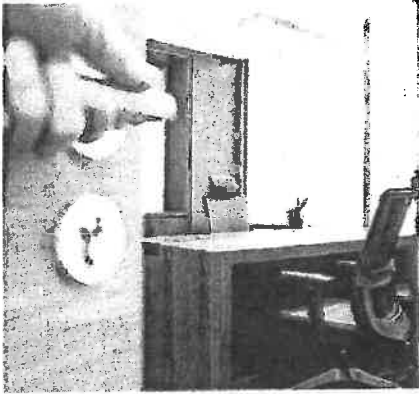
From phones to drives to PCs, developments in technology are constantly requiring electronics recovery operations to institute new processing techniques. The burden to keep up is compounded by difficulties in finding and hiring employees who possess the correct skills for work that often takes place in plants with several ISO or industry accreditations.

The solution to implementing processing improvements amid these challenges is actually already on your plant floor each day – it is your amazing team. All workers need to strengthen their agility and output is a reliable framework, proper training, and guidance in a holistic approach to operations.

In short, they need to be integrated into a model of lean manufacturing.

The lean approach was first articulated in the late-1980s and has been helping companies in a multitude of industries strengthen their foundations ever since. Its goal is simply to empower a workforce to reduce wasted time and resources as a company strives to produce with consistency.

How do you bring it to your plant floor? The steps outlined here will set you in the right direction.



Vision:

Strategy starts at the top

Implementing a lean-inspired system in a processing facility will deliver best results if the game plan comes directly from company leaders and a cadence of supportive messaging happens throughout the journey.

The effort starts with framing the reasons why the organization needs to go lean and how the operation plans to manifest its vision. Explain the challenges in the marketplace and what the plant workers need to achieve as a group. Start by developing a five-year plan that can be presented to the whole organization, with each consecutive year containing specific goals (for example, inventory accuracy at X percent and personnel retention rate at Y percent).

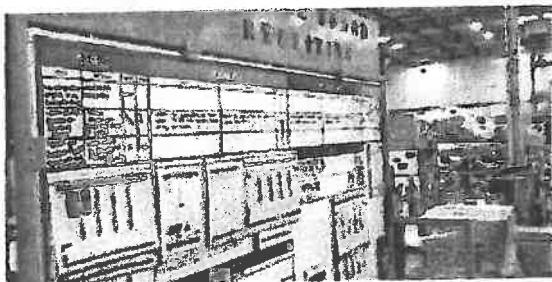
The next step is developing a more specific one-year plan with deadlines. This outline (which should be revisited regularly) should fit on one page if possible and show the year's projects, the resources needed, a timeline to success, and how progress will be measured.

Communications:

Huddle up and break down barriers

Now that you have clearer goals, you'll need a system for agile communication that is tied to progress measurement. The answer is a "daily huddle."

First, group together the subsections of the plant into clusters – such groupings could be receiving, shipping, testing, shredding and demanufacturing. These are your specific team areas, each with a designated leader and alternate leader who run mandatory meetings each day. A great tool for this communication strategy is a dry erase board divided into the following sections: core values of the company, short-term issues and feedback, attendance, and continuous improvement projects.



During the daily huddle at the start of the shift, the leader cycles through each area of the board asking those who do the work if they have issues relating to safety, quality and so on. The metrics from the previous day's production are reviewed and the team reflects on how they did and what needs to be done

to meet previously determined goals. Meanwhile, the attendance chart shows who was on time to the meeting – this is a visual way of emphasizing the importance of the huddle.

Lean-style work relies on direct employee feedback, with workers often bringing up important issues, such as a certain tool wearing out faster than others or requests for new products to help them on the line. The daily huddle is an ideal avenue to encourage this dialogue.

Management also has an important role in the meeting structure. A group of managers – it could include leaders of HR, safety, purchasing, maintenance and other divisions, in addition to the plant manager – should go to each board in the middle of the shift and receive a brief report from the team leader on issues, plans and performance. By cycling through all group areas at pre-planned times, management gets to know the pulse of the plant. The action also helps company leaders break through the barrier that often separates them from those undertaking production, opening the door to insights and interactions that can boost productivity and make for a happier workforce.

Positive habits:

Say yes to 5S

Implementing tools for process improvement is often the next step, and a popular methodology is instituting a system centered around “5S” – sort, set in order, shine, standardize and sustain.

The process begins by pulling together those same huddle area teams and training them in 5S, with either the team leader or an outside practitioner facilitating the early sessions.

“Sort” means removing all items from the workplace that are not essential for regular operations. Red tags are given to the team to label any items they feel are not needed – this might include broken or worn tools, outdated signs or excess cleaning supplies.



When it comes to “set in order,” specific locations are established for tools and supplies in the work area. For example, a tool board may contain vinyl silhouettes of the tools that show where they are normally kept on the board. Tools are also painted or labeled so they can be quickly returned to their area. Keep the most frequently used items closest to the workers, and analyze how much employees need to walk, lift or stretch, and find the path that maximizes physical efficiency.

The “shine” step is essentially a cleaning standard and schedule for the area and any equipment within. This step also focuses on proper lighting, trip hazards such as

extension cords, and area physical appearance. A daily cleaning highlights defects and safety problems in the work area. At the same time, painting and beautification can improve plant morale and reinforce the commitment of management.

Next is “standardize,” the goal of which is to set expectations for a work area’s inventory, required tools, production procedures, material locations and labeling requirements, among other things. These standards are developed by the local team and posted in a clear, easy-to-digest format (more images, less text). If the simple procedures are mapped out and placed in front of workers all day, they are more likely to understand and follow them.

The last step, “sustain,” is often undervalued and can lead to the whole system falling apart if not done properly. Sustain is about making sure the other four S’s become a habit for all members of the team. Strategies in this realm include audits, speaking about 5S performance at the daily huddle, making time each day to undertake the steps, and offering praise to those who deserve it.

Downtime reduction:

Keep employees on the line

The concept of total productive maintenance (TPM) is often applied to machines, but it can also be leveraged to enhance operations as a whole – and is a great supplement to the other lean methods discussed above.

A TPM system makes individual workers responsible for the health of a specific part of the line. Checklists outline the items that need regular inspection, and a visual record is placed in the area that shows the checks taking place. This also serves as a central communications point bringing together operations, maintenance and management.



The goal is to achieve fewer downtime hours or disturbances to the plant’s flow by identifying small issues before they become large unplanned outages or problems.

It can certainly be daunting to transfer responsibilities from a dedicated maintenance team to a line worker, but in most cases there is little reason to worry. These employees typically have the deepest understanding of how a piece of equipment runs daily and can tell if an issue is developing or if quality is decreasing.

Setting up TPM begins with dividing an equipment line or area into distinct sections. For example, an infeed conveyor or shredder could be one area while the shipping department would be another. Each has its own TPM boards and responsible parties. Next, the checklists need to be developed – items commonly found in work orders showing

frequent repair should be on the list. Housekeeping, quality, stock levels and regulatory-requirement-type tasks can also be included. Highly skilled tasks or procedures with risk should be left off and done by the appropriate teams.

When a non-conforming item is found on the checklist, an X is placed in that area. This requires the employee to submit a maintenance request and also note the incident on the log sheet that stays on the board. How many times have we all heard that maintenance was told about an issue and never responded with a date? This system helps solve that disconnect.

Every shift should also have the employee's checks acknowledged by initial. Likewise, both the maintenance and management teams need to service the boards each shift and acknowledge the inspection by initial in the designated areas. Since the theme behind the success of TPM is to be visual and involve all levels of production, visual work instructions are also needed nearby.

And of course, make sure all affected staff are properly trained in lock-out-tag-out if machinery is involved.

Boosting efficiency:

Go for a 'Gemba' Walk

The simple action of a plant walk-through by managers or supervisors has its own place in the lean lexicon. This activity is called the Gemba Walk, a term that references a Japanese word meaning "the real place" (lean practices were pioneered by Toyota in Japan). The goal is to find the hidden factory – the spots where non-documented workarounds, waste or rework may exist.

When walking the plant floor, look for the following wasted efforts:

- Motion – Are employees walking too much?
- Inventory – How much floor space is not tied to orders?
- Waiting – Is an employee out of material?
- Defects – Do you see blemishes or quality issues in finished goods?
- Overproduction – Is there a home for all the finished goods on the floor?
- Transportation – How many miles per year do the forklifts drive?
- Over-processing – Did the work put into the product exceed the level it was sold for?



During the walk-through process, leaders will want to

ask in-depth questions about what materials are used, what people do, and how they know what to do. When issues are recognized, resist the urge to bring them up on the spot. Instead, work with the managers responsible to put together a better process. Then document the new procedure.

Documented growth:

Show progress to the team

The lean manufacturing toolbox contains much more than discussed in this introduction. The steps outlined here were selected based on their suitability to add the most value to an electronics recycling or ITAD facility.

Lean is a continuous process of small improvements, and good managers make sure to chart that progress and share it with the workers who are at the heart of the system.

Remember to take before and after pictures in each area and document what was done so the team can reflect on the great progress made over time. The best part of the lean journey is not the daily wins, but the empowered and open workplace and atmosphere that is created as you make each day a little better for all.

Rafael Reveles is an engineer and president of Converge Engineering. He has 19 years of experience operating, designing, and building e-scrap and metals processing systems and can be contacted at rafael.reveles@convergeengineering.com. Converge Engineering provides turn-key shredding and materials-recovery equipment and consulting to recyclers.

**Environmental Services Joint Powers' Authority
Board of Directors' Meeting**

Thursday, March 14, 2019

Technical Advisory Group

Breakout Session

