**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 – VACANT
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

# Rural Counties' Environmental Services Joint Powers Authority
# Board of Directors' & Technical Advisory Meeting
# Rural County Representatives of California Board Room
# 1215 K St., 16th Floor
# Sacramento, CA 95814

## Thursday, December 12, 2019 9:00 a.m. – 3 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** **Page 1**

Discussion and possible action related to the following:

A. Approval of Minutes from the Meeting of October 17, 2019 – Supervisor Michael Kobseff, ESJPA Chair *(pp 3-16; 5 minutes)*

B. Approval of Minutes from the Meeting of August 15, 2019 – Supervisor Kobseff *(pp 17-30; 5 minutes)*

C. Approval of Minutes from the Meeting of June 20, 2019 – Supervisor Kobseff *(pp 31-44; 5 minutes)*

D. Review and approval of the 2020 Meeting Schedule – Staci Heaton, ESJPA Program Manager *(pg. 45; 5 minutes)*

E. Review and approval of the 2020 ESJPA Budget – Milena De Melo, Controller, RCRC *(pp 47-49; 10 minutes)*

F. Review and approval of the 2020 Contract Services Agreement between ESJPA and RCRC – Staci Heaton, ESJPA Program Manager *(pp 51-60; 5 minutes)*

G. Review of RCRC Solid Waste Policy Principles – Staci Heaton (pp 61-64; 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 **Page 65**

A. Proposed General Waste Discharge Requirements for Commercial Composting Operations/Proposed Statewide Disaster-Related Wastes General Order – Brianna St. Pierre, Supervisor, State Water Resources Control Board *(pp 67-176, 25 minutes)*

B. Food Recovery in a Regulatory World – Jeffrey Warren, Environmental Management Program Manager, County of El Dorado (25 minutes)

C. 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 *(10 minutes)*

A. Complete Text of Selected Bills

B. Summary Listing of All Solid Waste Related Bills

## VI. Member County Concerns/Comments *(10 minutes)*

## VII. Solid Waste/Regulatory Update **Page 177**

Discussion and possible action related to the following:

A. CalRecycle
- SB 1383 Short-Lived Climate Pollutant Regulations– Mary Pitto, RCRC Regulatory Affairs Advocate *(pp 179-246; 20 minutes)*
- AB 901 Recycling and Disposal Reporting Regulations – Larry Sweetser, ESJPA Consultant *(pp 247-251; 5 minutes)*

B. State Water Resources Control Board
- Landfill PFAS Orders – Larry Sweetser *(5 minutes)*
- Waste discharge fees – Larry Sweetser *(5 minutes)*

C. Department of Toxic Substances Control
- Photovoltaic Modules – Larry Sweetser *(pp 253-257; 5 minutes)*

D. Extended Producer Responsibility
- CA Product Stewardship Council Update – Doug Kobold, Executive Director, CPSC *(5 minutes)*

- Mattress Recycling Council Update – Liz Wagner, Special Projects Coordinator, Mattress Recycling Council *(5 minutes)*

E. Grant Program Update – Larry Sweetser *(pp; 5 minutes)*

F. Highlights of November CalRecycle Meetings – Larry Sweetser *(pp 263-266; 5 minutes)*

G. Other Regulatory Announcements/Issues of Interest
- Cal EPA CUPA Newsletters *(pp 267-280)*

**VIII. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday, December 12, 2019.**

**IX. Articles of Interest** **Page 281**
*(pp 283-323)*

**X. Resolutions of Appreciation**

**XI. Adjournment**

## 12:00 PM Holiday Luncheon

## 1:00 PM

## Technical Advisory Group Breakout Session

**Preparing for SB 1383 Implementation**

# Agenda Item II

# BUSINESS MATTERS

# Minutes of the Rural Counties' Environmental Services Joint Powers Authority Board of Directors' Meeting
## Rural County Representatives of California
## 1215 K St., 16th Floor
## Sacramento, CA 95814

**Thursday, October 17, 2019**

**VOTING MEMBERS PRESENT**

| | |
|---|---|
| Todd Storti | Butte County |
| Tedd Ward | Del Norte County |
| Lori Parlin | El Dorado County |
| Aaron Albaugh | Lassen County |
| Ahmad Alkhayyat | Madera County |
| Sam Cerveny | Mariposa County |
| Michael Kobseff | Siskiyou County |
| Rachel Ross | Tehama County |
| Diane Rader | Trinity County |

**STAFF IN ATTENDANCE**

| | |
|---|---|
| Staci Heaton, Program Manager | Rural Counties ESJPA |
| John Kennedy, Legislative Affairs Advocate | RCRC Government Affairs |
| Leigh Kammerich, Regulatory Affairs Specialist | RCRC Government Affairs |
| Mary Pitto, Regulatory Affairs Advocate | RCRC Government Affairs |
| Larry Sweetser, ESJPA Consultant | Sweetser and Associates, Inc. |

**GUEST SPEAKERS**

Matt Henigan, CalRecycle
Joe Rasmussen, CalRecycle
Doug Kobold, CPSC
Liz Wagner, MRC
Nichole Dorr, PaintCare

**OTHERS IN ATTENDANCE**

| | |
|---|---|
| Greg Stanton | El Dorado County |
| Rebecca Lillis | Placer County |
| Don Renz | Shasta County |
| Jason Ledbetter | Siskiyou County |

| | |
|---|---|
| Nate Birtwhistle | Tuolumne County |
| John Pabst | ACES Waste Services, Inc. |
| Curt Fujii | Fujii Civil Engineering |
| Wendell Minshew | SCS Engineers |
| Lauren Frigm | Sacramento Regional Conservation Corps |
| Jasmin Jackson | Sacramento Regional Conservation Corps |
| Deb Phillips | San Joaquin/Greater Valley Conservation Corps |
| Julie Trueblood | CalRecycle |
| Stephanie Becker | CalRecycle |
| Kristen Pidcock | CalRecycle |
| Alex Souza | CalRecycle |
| Willie Carpenter | CalRecycle |
| Jeff McDaniel | CalRecycle |

**MEMBERS NOT REPRESENTED**

Alpine County, Amador County, Calaveras County, Colusa County, Glenn County, Imperial County, Inyo County, Lake County, Modoc County, Mono County, Nevada County, Plumas County, and Sierra County.

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

Supervisor Michael Kobseff, ESJPA Chair, called the meeting to order at 9:06am. A quorum was determined absent. Self-introductions were made.

## II. Public Comment

No public comments were made.

## III. Presentations

### A. Report from CalRecycle

Joe Rasmussen, Cal Recycle introduced CalRecycle staff present and provided a hand-out on SB 1383. He also provided an overview on upcoming grant program due dates: tire grant program, due October 31st; farm and ranch abatement program, due November 21st—connect with Stephanie Becker; organics grant program, due. November 21st; lastly, the GGRF grant program is ongoing. Upcoming events include the rate determination methodology workshop in San Diego on October 29th.

Larry Sweetser asked Stephanie Becker, CalRecycle what the follow up would be on the Farm and Ranch Clean-up Workshop. He also mentioned the program is undersubscribed. Ms. Becker responded that the timeline shared on listserv will be a month or two. She is doing an informal webinar prior to formal rulemaking. A statute change might be needed to expand the program and she would love feedback about that. The workshop was short, about 45 minutes and is on the CalRecycle YouTube channel. Mr. Sweetser also mentioned that

resource conservation districts are starting to apply. They have resources and it might be worth teaming up with them.

Greg Stanton, El Dorado County asked about the organics grant program and whether it could fund feasibility studies, or if it is more construction related projects. Mr. Rasmussen couldn't respond because of the phase the grant cycle is currently open, but did say that we need more infrastructure and generally it depends on how much money we're allocated in the budget to determine the best use of funds. Please send questions via email to the CalRecycle grant program in order to get it added to the FAQ page.

B. "Turning the Ship Around: Wading Through the Plastic Seas" Markets Workshop

Tedd Ward, Director of Del Norte County Solid Waste Management Authority, gave a presentation as a preview of a Workshop immediately following the ESJPA Meeting at CalEPA.

Del Norte county used to have a wider variety of materials in our recycling stream and have eliminated a lot. All of Del Norte's recyclables are now being processed in Humboldt county. Now Recology control the processing system and rates have increased. All of the infrastructure we depended upon is now totally different and not in our control. We're trying to adapt. There are laws that deal with plastic bags and straws, targeted materials. The legislation that's being developed is supposed to be material neutral, it applies to all packaging. But we know that the problem is plastics.

Plastics come from boiled off vapors from petroleum and the resulting separations of the petroleum grades. There are lots of midgrade solvents in between asphalt and petroleum fuel. More material is used as a waste or some new plastic product. We will always have plastics if we're a fuel-driven economy. Globally, most of the plastics that are processed are not recycled at all. Of the plastics that are recycled, they are generally downcycled (melted into another product) once. Plastic production has continued to increase and has doubled since 2004.

Materials managers need to say this is not ok and we need a new strategy. We can't have recycling goals if we don't change the packaging of materials. As Confucius has said, "If we continue on our current course and we don't change our direction, we'll end up where we're headed." Twelve billion tons of plastics will be circling on our planet by the year 2050. Many of the market destinations do not manage their plastics well. With China Sword, we have momentum to send plastics to Southeast Asia. The emerging markets are a fraction of the demand of China. The volume being used and the demand now is a pale shadow.

Mr. Ward continued that his concern as a local manager is justifying to his community that the recyclables collected are being managed well. Recognize that the plastics industry is on our backs because some of these products have been a little bit recycled. But some products have no plan to ever be recycled. For example, think about condiment packets: we sell convenience. We need to talk about how we manage materials and how we can do it differently. Rural communities need to be engaged. There are ways forward. It is concerning that we are concurrently seeing a collapse of our infrastructure, and a collapse of recycling centers.

Supervisor Parlin asked if the CalRecycle workshop will it be recorded. The answer was yes, CalRecycle should have it webcasted and should be posted.

Larry Sweetser asked about Del Norte's zero-waste solid waste plan and asked if this [plastics plan] was a part of it. Mr. Ward responded that his Board hasn't taken a position on this plan. There's going to be legislative momentum that we'll have to respond to. But we are being more responsive to the CalRecycle mandates, not necessarily the zero-waste plan. Looking to the public to help solve our problem.

## IV. Legislative Update

John Kennedy, Legislative Affairs Advocate for RCRC, provided a legislative update on the session that just ended and the conclusion of all measures that the Governor signed or vetoed. The following bills were discussed.

Signed by the Governor:

AB 54 by Assemblymember Ting; California Beverage Container and Litter Reduction Act [Bottle Bill].

- AB 54 was a modest proposal focusing largely in response to the recent closure of Re-Planet recycling centers. Rural jurisdictions were largely spared since we bore the greater share of prior closures.
- Grocers have limited relief until July 2020, but only those that have been recently impacted by closures. Same type of relief if there is a pending application with CalRecycle in underserved convenience zones.
- Extended the sunset date of an existing pilot program regarding consumer access to redemption opportunities. Geared to San Francisco and rural jurisdictions. And provides some funding. Trying to get a little innovative with consumer redemption opportunities.
- Added late to the bill is a $5 million supplemental payment for low volume recyclers, with some strings attached, e.g. CalRecycle must submit a report on how to expand or re-configure convenience zones. It's a mixed bag. Some don't like the increased subsidization of these recycling centers, but it might be a necessary evil for consumers to get their deposit back.
- The Governor's signing message acknowledged this is a stopgap and wants a more comprehensive package in the future. Others bills stalled, like AB 634.
- Michael Kobseff asked about recycling at grocery stores and gave an example of what's happening in Siskiyou. The city of Weed had their bins removed because they were getting needles and human waste in those recycling bins. It was easier to pull them out altogether.

AB 187 by Assemblymember Cristina Garcia and Frank Bigelow; mattress recycling program.

- Response to an audit of the Mattress Recycling Program.
- One of the important pieces is the requirement for CalRecycle to establish goals for consumer convenience, including one per county (except for Alpine County).

AB 815 by Assemblymember Aguiar-Curry; dual stream recycling incentives.

- CalRecycle good faith determinations that local jurisdictions have source reduction recycling element.
- Had some early concerns, got amendments with intent language that 1) this is to incentivize, not penalize, dual stream recycling, and 2) it is not the intent to do more enforcement against non-dual stream programs.

AB 827 by Assemblymember McCarty; commercial and organic waste recycling bins.

- Requires businesses and public entities subject to mandatory commercial organic waste recycling to provide customers with organic recycling bins on the premises.
- Increases consumer convenience to meet organic and solid waste recycling goals.

AB 1162 by Assemblymember Kalra; hotel lodging personal care products, small plastic bottles.

- Doesn't impact us directly, but it bans hotels and motels from providing small consumer personal care products. You can still request them and they could still be provided on a complimentary basis, but it can't be provided for in your room.

AB 1583 by Assemblymember Eggman; California Recycling Market Development Act.

- Will increase recyclable markets by:
  - Extends CAEATFA program by 10 years, sales and use tax exemption;
  - Extends the sunset date of the recycling market development zone program at CalRecycle.
  - Requires CalRecycle to convene a commission on recycling markets, curbside recycling, how to achieve goals.
  - Eliminates "chasing arrows" on plastic products, will only have the resin number. This is a nod to the fact that not everything is actually recyclable.

AB 1597 by the Assembly Committee on Environmental Safety and Toxic Materials; hazardous waste transportation.

- Codifies federal requirements to hazardous waste manifest requirements. State law now conforms to federal law.

SB 726 by Senator Caballero; household hazardous waste.

- Increased utilization of hazardous waste re-use programs to reduce hazardous waste disposal and reduce costs.

Vetoed bills:

AB 792 by Assemblymember Ting; plastic containers minimum recycled content.

- 50% recycled content mandate on beverage containers by 2030.
- Veto message was because it was too much of a burden on CalRecycle. Will be part of the discussion next year.

No action:

SB 68 by Senator Galgiani; treated wood waste bill.

- Sunset of the program is 2021.
- Author will work with Administration to reduce costs. Department of Finance is concerned with costs on DTSC—have massive structural deficit. Held hostage to a larger discussion on how to fix DTSC.

SB 54 and AB 1080 by Senator Allen and Assemblymember Gonzalez-Fletcher, respectively; single use plastic packaging.

- Caught a lot industry and opponents off guard that these bills moved forward so fast and so far because they are so broad and far reaching.
- Required manufactures to determine if products are recyclable and compostable. Required manufacturers to achieve certain recycling rates for their product and packaging types.
- Industry didn't really come out until late, weren't exactly opposed, but had ongoing concerns. Ag was concerned that their produce packaging would be affected (e.g. for berries); wine and glass industry, beverage container manufactures—eventually moved to neutral by delaying implementation. Wine continued to oppose; they are not currently subject to the beverage container recycling program.
- Interesting developments is where the plastics industry ended up. The American Chemistry Council (ACC) wanted tweaks, wanted to impose fees on their own members for market development. ACC will be interested in a funding system that comes into play. The opposition in general wants to see an infrastructure package. We've been saying that as well per our experience with SB 1383 requirements. This was acknowledged by the authors that we need some funding out there. Looked like we could get there, but it stalled based on other politics.
- Governor wanted these bills on his desk, but other politics came into play. We engaged heavily throughout to make sure we do not have obligations like AB 939 and SB 1383. Think we're in good shape from a local government perspective moving forward next year. We have the right mix.

Next steps:

We've been working with the solid waste industry on a generator fee to provide significant funding for solid waste management, assistance for local governments to implement SB 1383, offset SWRCB permit fees, etc. for a comprehensive funding package. The only thing missing was plastics recycling. ACC solution would have paired nicely. Things got sideways over one provision: local governments can't take this new funding into consideration when negotiating new contracts. We entered into this discussion because we wanted to reduce local government and consumer costs. Still need to iron that out. It's a non-starter if we restrict ability to for local governments to negotiate solid waste fees and franchise fees.

Latest development is that Los Angeles county approved a call for the state to approve new funding for infrastructure. Wants the state to pay $200 million per year recycling infrastructure, MRFs, organics recycling, market development. LA carries a lot of weight in the Capitol, makes solid waste funding a little more realistic. The Governor is concerned about the state of the budget, revenues for next year. All the players in solid waste are starting to coalesce around funding.

Seeing bond discussions for solid waste infrastructure, climate adaptation and resiliency. Might come up next year. Legislature put forth a $15 billion school bond instead. Assemblymember Mullin introduced AB 1298, a bond that is light on details (no numbers in any of the pots of funding) but there is a section dedicated to address critical infrastructure to reduce plastics, divert organic waste from landfills, provide grants, loans and incentives to assist solid waste generally. Not something we've talked about before, will be interesting to see where this goes.

Tedd Ward asked for clarification about rural amendments requested in SB 54. Mr. Kennedy responded 1) deposit protection for consumers. The authors are interested in giving manufacturers relief, but these deposit programs don't always work in rural areas because we don't have a way in our communities to get our money back; 2) local government compliance costs—e.g. CalRecycle regs don't disproportionately impact disadvantaged communities; 3) who has ultimate obligation to achieve these rates? Need it to be on manufacturers. Our biggest victory was to ensure that it is manufacturers, can't impose obligations on local jurisdictions. Manufacturers need skin in the game.

Jason Ledbetter, Siskiyou County, asked which bill was vetoed by the Governor and why. Mr. Kennedy said it is AB 792; the Governor's statement was that it was too burdensome on CalRecycle to determine feasibility.

## V. Member County Concerns/Comments

No concerns were raised.

## VI. Solid Waste/Regulatory Update

A. CalRecycle
- SB 1383 Short-Lived Climate Pollutant Regulations

Mary Pitto, ESJPA Consultant, provided a summary of the SB 1383 regulations and the proposed alternative to our organics program, rather than the prescriptive one, for rural jurisdictions. This was our attempt before the third draft came out. We talked about what rural counties could do. If you have comments, we're still trying to get CalRecycle to consider this. We would appreciate input on additions or deletions to this proposal. One of the things it does was take the responsibility of the edibles out of solid waste division and put it into health departments or environmental health. Also was specific that the green building code water model ordinance would be with the building department. The Board of Supervisors is responsible, but it needs to be referred to a more appropriate department.

The CalRecycle EIR came out in the last few months, RCRC submitted comments on the draft EIR. Difficult to comment on specifics because it's a program EIR. Difficult to make comments for you because you don't have the projects yet. However, we did talk about their unrealistic expectations that over 170 new composting digesters would be built by 2025 and unrealistic urban air basin requirements. Also brought up bear populations, want them to reevaluate. Air quality analysis was lacking in detail, no appendix with data on air quality—can't see their supporting documents on that or for their traffic analysis that says it's a net benefit.

Also questioned their adequacy of alternatives. They refuted the under sink disposer. We asked that they consider a suite of options rather than just standalone programs.

Third formal draft of regs came out on October 2nd for a 15-day comment period. RCRC will respond by the deadline tomorrow. I'd like to share some of the positive changes:

1) waivers and exemptions granted for populations less than 70,000 have been extended two years to December 31, 2026;
2) linguistic outreach was simplified—local jurisdictions decide when they need to translate materials;
3) organic waste capacity planning is temporarily exempt for the first planning period, i.e. the next five years;
4) allowed more local studies and data for capacity planning;
5) now allow mulch for procurement;
6) exempted rural jurisdictions [19 counties] from procurement requirements for 5 years (until December 31, 2026);
7) under the enforcement section, jurisdictions now have to review de minimis every 5 years for physical space waivers;
8) removed penalty tables, now it is easier to determine and simpler. But they deleted the amounts previously, which amounted to much less. The lowest amount went from $50 to $500;
9) grey container waste evaluation;
10) phase in incompatible materials;
11) revised status impact report.

Larry Sweetser continued and said this has been the hardest regulatory package in his over 30 years. There is going to be a lot of arguments with CalRecycle in the future; lots of questions to keep on top of. For example, what does a hauler route mean? Daily, weekly, monthly, annually? The definition sounds like a complicated term for what they want to do.

Sampling got simpler, but still very comprehensive. Still trying to get cost estimates to conduct sampling. No change was made to how they determine census tract but we had good argument for rural areas to allow for smaller increments. CalRecycle's rationale for not revising this requirement was unclear.. We also weren't successful with modifying the bear exemptions. We proposed an alternative standard. Agricultural Commissioners have expressed concerns about bears as well.. SWANA produced a picture of a bear in LA county at 1,400 foot elevation.

Michael Kobseff said the bear population is exploding because we can't have hounds. Its going to become more problematic in the future.

Tedd Ward said his Board gave us authority to approach the legislature with a rural alternative. We should divide up the tasks with other jurisdictions with better expertise—like the bear issue.

Larry Sweetser continued that he appreciates mulch being added into procurement, but don't understand the testing of it for pathogens and metals. Cart colors were made more flexible. Some jurisdictions are still going to have to change out some colors. Unsegregated

single-collection garbage container will be required has to be taken to high diversion organics waste facilities, but I haven't been able to identify where those facilities are. There's a lot of handling of those materials before they go to landfills. Penalties still have vague terms, but lots of money could potentially rack up. If you have to renegotiate contracts during the corrective action plan, this is a very timely process... Need more time during the enforcement mechanism.

We will be looking to pull together more information so you can easily explain this. Also working on a timeline, a list of dates of what has to happen and when. Outline on ordinances that have to be done by local officials. Key points for board packets and presentations. Calculator to figure out the costs.

Rachel Ross, Tehama County, said program development will be $180,000, which doesn't include implementation costs for 64,000 customers.

Don Renz, Shasta County, said they put out an RFP for organics planning. It's going to be in the $150,000 ballpark for getting a study on current and future organics, recycling market, implementation costs. That will be an approximately 6-month feasibility study.

Mr. Sweetser said ESJPA is compiling all information that counties can use. Please forward any information to Staci Heaton so we can keep a repository.

Todd Storti, Butte County, said they also did a capacity and needs assessment for SB 1383. One of the deliverables is a new rate model to the Board of Supervisors. Its $300,000. Main goal is to get out of the death spiral with our rate model. There is a misconception that our gate fee can cover everything, need to detail out the bill like cell phones do. Add a SB 1383 line.

Don Renz added there is misconception we're making money on our recyclables. Also, he might be able to give a scope and scale overview next quarter of his consultant's contract to give ESJPA an overview. Consultants are trying to expand into this market. Be wary of the person you're hiring, make sure they're capable and qualified of doing what you're asking.

Mr. Sweetser warned there are a lot of consultants out there and he's declining to join other consultants to stay free of conflict to assist ESJPA members.

Michael Kobseff asked what is the end result; is there a benefit for what's trying to be done? Mr. Sweetser responded that the intent has merit, but this is the difficult road we're on, whether it's the right one or not.

Mr. Kobseff also asked what it is going to cost the public and will this be a Prop 218 process. Mr. Sweetser indicated that CalRecycle legal staff has been asked that question but no answer was provided. Mr. Sweetser said he's working a format for what other counties are doing so you can compare and contrast services and costs. Asked CalRecycle what to do if the vote fails with the public.

Ahmad Alkhayyat, Madera County, said if you don't have mandatory collection, you don't have to do the Prop 218 process. If its subscription based, you change the tipping fee.

Larry Sweetser suggested documenting all efforts, even if they don't work, so you can explain to CalRecycle what efforts have been tried. CalRecycle is looking at education statewide. Going to be a hard sell for the public.

Mary Pitto reminded everyone that in your packet is a sample letter for you to take to your Board of Supervisors. The new letter we're sending to CalRecycle will talk about the impacts this will have, but technically CalRecycle will only have to respond to changes made to the third draft. We're limiting our comments to the changes, making a nod to our previous comments because they're already on the record. CalRecycle's expectations is unrealistic. We're suggesting they focus more on dealing with urban counties first. The 15 most urban counties represent 83% of the state's population. The next range of 24 counties should be phase two. The 19 counties that have less than 70,000 people should be delayed until 2030. I'm still amazed that they would put any resources into areas with less than 70,000, its less than 1% of the population.

- AB 901 Recycling and Disposal Reporting Regulations – Larry Sweetser, ESJPA Consultant

Larry Sweetser said reports are due on October 15th in the old system. He'll be reaching out to CalRecycle to make sure they got in on time.

Diane Rader, Trinity County said the next one due in new system does not have what is due live in the system yet. She can't see the data fields of what to report. Rachel Ross, Tehama County agreed and is having the same issue. Mr. Sweetser will try to disseminate the list of what you have to report.

B. State Water Resources Control Board

- Landfill PFAS Orders – Larry Sweetser

Larry Sweetser said PFAS is still in the news. He is asking for reports from counties that had to do the testing. Don Renz, Shasta County said they're still collecting samples. Mr. Sweetser said some jurisdictions asked for delays in samples. There are upcoming PFAS workshops, 2-day workshops on December 4-5.

Rachel Ross, Tehama added there is a huge issue with where to take leachate. Concern wastewater treatment won't take it anymore.

- Waste discharge fees – Larry Sweetser

Larry Sweetser said there is no changes to Landfill WDR fees. Other WDR fees do have increases.

C. Department of Toxic Substances Control

- Photovoltaic Modules

Larry Sweetser said comments were submitted and that the proposed regulations were greatly improved but still have issues. The proposed regulations state that comingled units are electronic devices, not solar panels. Can't comingle electronic devices with solar panels in the same container. It is not clear why they took that out. There's a 100-kilogram limit for transport. That's literally 3-4 solar panels. You're required to give DTSC 30 days' notice before accepting a PV panel, but how do we do that if they are found illegally dumped. Should be able to notify after the fact.

## VII. Announcements

Staci Heaton, Program Manager, was given permission by the Chair to speak on something off the agenda regarding Public Safety Power Shutoffs (PSPS). As we're tracking and working on these PG&E and Southern California Edison PSPS issues, we want to get your feedback and ask that you please keep us apprised of PSPS events and how it impacts your operations moving forward.

Don Renz, Shasta, said his main franchise hauler has compressed natural gas vehicles and could not get a generator large enough to supply. Two routes didn't get collected. Lots of folks put trash in the recycling container, to the point where it couldn't be sorted and recycled. A $100,000 generator would have been required to continue our operation during PSPS. Food spoilage will also likely increase organic waste.

Tedd Ward, Del Norte, said we have to do constituent concern monitoring every five years. And that while they weren't subject to outages, the labs they were shipping samples to couldn't take them and they had to scramble to get the analysis completed in time.

Rachel Ross, Tehama, added they didn't have the ability to communicate with anybody, even themselves onsite.

## VIII. Solid Waste/Regulatory Update, continued

D. Extended Producer Responsibility

- CA Product Stewardship Council Update

Doug Kobold, Executive Director of CPSC, parlayed off Mr. Sweetser's discussion on PV Module comments during the Regulatory update. Mr. Kobold added that the limitations on how many panels a hauler can haul will be very problematic and they are working diligently to remedy. Another potential hold up with these regulations is if DTSC will get their waiver (authority) from the federal government to designate these PV modules as universal waste. DTSC finally got around to sending letter to U.S. EPA in July 2019 but haven't gotten authorization yet. These regulations need to be finished by March [2020] but can't do it if U.S. EPA doesn't give them the authority. In 5 years going to see a huge increase in solar

panels because of new building codes, and inferior panels coming off roofs. Homeowners going to want 15-20 year panels. CPSC wants a durability standard.

On other bills, AB 1509 will come back in January. Need a solution on lithium-ion batteries, mitigate those fires. These batteries are now in single-use size and being introduced into the waste stream. Very concerned.

SB 424, tobacco waste bill, coming back in January. Want to keep cigarette butts in the bill, create a stewardship for vaping waste. If you haven't encountered these, they are a plastic device with a microchip, have a lithium-ion battery all in one unit. Very hard to deal with.

CPSC is very involved in SB 54/AB 1080. The hauling community is opposed. They have some valid concerns, but are working with them on the EPR section.

Finally, Mr. Kobold announced the installation of 300 bins statewide for our medical bins starting tomorrow, in collaboration with DHCS. They're reaching out to counties that didn't submit any applications.

Lastly, the AB 729 carpet bill was signed by the governor. Gives CalRecycle tools they need to make that program a success, i.e. take the keys away from CARE. Wants to ultimately increase the recycling of carpet, which is only at 12%.

## IX. Announcements, continued

Chair Kobseff welcomed Matt Henigan, new Deputy Director of CalReycle's Materials Management and Local Assistance Division. Mr. Henigan fills the position of Mr. Howard Levenson as Deputy Director Materials Management & Local Assistance, who recently retired. Mr. Henigan made some brief introductory remarks and said he is looking forward to engaging and collaborating with the ESJPA.

## X. Solid Waste/Regulatory Update, continued

- Mattress Recycling Council Update

Liz Wagner, Special Projects Coordinator, MRC said they are holding an Alpine event this weekend and just held one in Del Norte. Tedd Ward, Del Norte reported that they're seeing decreasing numbers. Ms. Wagner continued that MRC is working with a tribe in Del Norte for a collection event. Plumas event is on October 19th. Glenn county transfer station recently opened. In other news, we're hiring a new Central Valley coordinator named Jennifer Durant. She will start coming to ESJPA meetings and will represent the following counties: Alpine, Amador, Calaveras, El Dorado, Inyo, Mariposa, Mono and Tuolumne.

- PaintCare Update

Nichole Dorr, Central California Regional Coordinator for PaintCare, said they are working on their annual report to submit to CalRecycle. Hoping to have some highlights at the next meeting. Have upcoming Alpine and Nevada county events. PaintCare is celebrating our 10th

anniversary as an organization. Will celebrate with mass mailing to our partners with brochures, etc. Also have a webpage with resources for our solid waste managers. Providing compensation on a reimbursement basis for re-use to help expand the program, e.g. a shed. Will also co-promote and help cover advertising costs. Preparing events for 2020, get in touch with your coordinator if you want an event.

- CARE Update – Lisa Mekis, California Senior Associate, Carpet America Recovery Effort

CARE representatives were absent.

E. Grant Program Update

Larry Sweetser is continuing to implement the OPP grant for approved counties. The grant was approved for tire amnesty, $90,000 for five counties.

USDA asked for more info on their application for organics management guide. Trying to get an update from them. To apply for the new cycle, see page 103 in ESJPA packet.

Also, a number of your oil centers may have gotten kicked out of their hazardous waste identification number because the verification questionnaire wasn't returned. More and more oil centers sending filters out as hazardous waste. CUPA's are trying to regulate oil centers as a large quantity generator. Some jurisdictions have exempted them. Mr. Sweetser will try to get more clarity from DTSC.

F. Highlights of September/October CalRecycle Meetings

Larry Sweetser discussed Merced county's completed compliance order for mandatory commercial recycling. At this week's Monthly meeting, CalRecycle is leading off on SB 212 rulemaking. Hopefully it will be a no cost program for pharmaceutical and sharps waste management.

There's an upcoming workshop on designated collectors of covered electronic wastes. Makes permanent the emergency regulations. Some time ago the rules were changed so schools couldn't use them and had to go to the local jurisdiction.

OPP grant awards announced. Thinks every one of our counties that applied got one.

There's an RFP for 2020 waste characterization study. Will include commercial generator and edible food waste study. It's a benchmark for SB 1383 compliance.

Tedd Ward said he's seeing determinations that [beverage container and oil] grants can only be used very narrowly. Challenging to find uses of the funds that are appropriate. Wants to promote all of our programs, not just oil and beverage containers. It's an ongoing frustration. Mr. Sweetser responded that part of it is not due to CalRecycle rules, they are rules imposed by the State Auditor.

G. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday, December 12, 2019.

Larry Sweetser offered to a committee member from the SB 1383 Edible Food Recovery focus group to present.

## XI. Articles of Interest

No articles were referenced.

## XII. Adjournment – was called at 11:52am

Respectfully submitted,
Leigh Kammerich, Regulatory Affairs Specialist

**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 – JIM MCHARGUE, AMADOR COUNTY
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

# Rural Counties' Environmental Services Joint Powers Authority
# Board of Directors' & Technical Advisory Meeting
# Rural County Representatives of California Board Room
# 1215 K St., 16th Floor
# Sacramento, CA 95814

## Thursday, August 15, 2019

**VOTING MEMBERS PRESENT**

| | |
|---|---|
| Jim McHargue | Amador County |
| Todd Storti | Butte County |
| Tedd Ward | Del Norte County |
| Lori Parlin | El Dorado County |
| Matt Kingsley | Inyo County |
| Lars Ewing | Lake County |
| Tom Valentino | Lassen County |
| Sam Cerveny | Mariposa County |
| Justin Nalder | Mono County |
| Bob Perreault | Plumas County |
| Rachel Ross | Tehama County |
| Diane Rader | Trinity County |

**STAFF IN ATTENDANCE**

| | |
|---|---|
| Staci Heaton, Program Manager | Rural Counties ESJPA |
| Larry Sweetser, ESJPA Consultant | Sweetser and Associates, Inc. |
| Arthur Wylene, General Counsel | RCRC Governmental Affairs |
| John Kennedy, Legislative Advocate | RCRC Governmental Affairs |
| Leigh Kammerich, Regulatory Affairs Specialist | RCRC Governmental Affairs |
| Mary Pitto, Regulatory Affairs Advocate | RCRC Governmental Affairs |

**GUEST SPEAKERS**

Claire Hervey Collins, Lewis Brisbois Bisgaard & Smith LLP
Paul Beck, Lewis Brisbois Bisgaard & Smith LLP
Julie Trueblood, CalRecycle
Doug Kobold, CPSC
Nate Pelczar, CPSC

Liz Wagner, MRC
Daria Kent, PaintCare

**OTHERS IN ATTENDANCE**

| | |
|---|---|
| Greg Stanton | El Dorado County |
| Don Renz | Shasta County |
| Tom Ramont | Shasta County |
| Kati Galvani | Lake County |
| Steve Rodowick | Butte County |
| Eric Miller | Butte County |
| John Pabst | ACES |
| Johnny Plasse | ACES |
| Tim Raibley | HDR Engineering |
| Curt Fujii | Fujii Civil Engineering |
| Rod Malloy | N&R Publications |
| Jeffory McDaniel | CalRecycle |
| Roberta Jetter | CalRecycle |
| Ward Danner | CalRecycle |
| Daisy Kong | CalRecycle |
| Willie Carpenter | CalRecycle |
| Alex Souza | CalRecycle |

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

Jim McHargue, Technical Advisory Group Chair, called the meeting to order at 9:02am. Self-introductions were made. A quorum was not determined.

## II. Business Matters

### A. Approval of Minutes from the Meeting of June 20, 2019

Due to the absence of a quorum, approval of the minutes was deferred to the next ESJPA meeting.

### B. Administrative Matters

Staci Heaton, Program Manager for the ESJPA, announced the Chair and Vice Chair couldn't be here today. The agenda was cut off from the packets that were sent out electronically and that extra copies would be provided at the meeting. Thirdly, she announced she would have to step out briefly between 10:30am and 10:45am with RCRC Chair, Supervisor Kingsley to attend a policy meeting on another matter.

### C. Remote ESJPA Meeting Participation and Brown Act Compliance

Arthur Wylene, RCRC General Counsel discussed the information provided in the memo in the packet. Generally, the Brown Act has provisions that allow for teleconference meetings. It is possible, however, whenever there is a tension in law with efficiency and accountability

and transparency, the Brown Act defers to accountability and transparency. Regarding the requirements of the Brown Act, first, teleconference meeting are not designed to let folks call in from office, home, or car. Designed with a model in which people participate from multiple locations and each location must meet open meetings criteria so the public can observe, such as speakerphone capacity, opportunity for public comment. Multiple public meeting locations have to have an agenda posted in the location. No last minute teleconferencing. Any vote taken has to be by roll call. All requirements apply even when no member of the public participates in attendance. With specialized bodies like this, it's hard to make these requirements relatable. The system is designed for public participation, but there's lots of logistical complications.

Tedd Ward, Del Norte County, expressed his appreciation for putting this in writing. The schedule can be a nightmare to travel here. It's nice to have a memo that addresses each of the concerns. It's better than a blanket no, it's too complicated and that we don't want to go through the details.

Ms. Heaton offered that staff would be happy to look into the possibility of livestreaming the meeting so that staff can view the meetings for the information. It would be a one-way stream, however, without the ability to participate for those watching.

Mr. Wylene said he has observed how the meetings are structured, and there are also practical implications on how the board interacts. Meeting attendees would lose the benefits of face to face dialogue with teleconferencing. If a meeting is livestreamed, it affects the dialogue. All of these things can affect the quality and quantity of the dialogue. Those aren't lawyer issues, those are policy issues.

## III. Public Comment

No public comments were made.

## IV. Business Matters, continued

### A. Resolution of Appreciation

Jim McHargue, Amador County, presented a resolution of appreciation from the Board of Directors to Steve Rodowick, Butte County, on the occasion of his retirement as a Recycling Coordinator from the Public Works Department. Mr. Rodowick was recognized for his years of service as a solid waste and recycling professional, as well as his contributions to the ESJPA since 2004.

## V. Presentations

### A. Prevailing Wage Law and Potential Impacts on the Solid Waste Industry

Claire Collins, Attorney with Lewis Brisbois Bisgaard & Smith LLP, began the presentation. Ms. Collins in the chair of real property group. There is a ton of overlap with real estate and public agency; included in real estate is construction. It's the perfect place where prevailing wage

rises. We are Counsel to the Los Angeles County Sanitation District, 24 districts in LA County operating 6 closed and open sanitary landfills, as well as 3 materials recovery facilities and transfer stations serving approximately 5.5 million people in LA County. Through that, we've seen the construction and closure of their largest landfill. Prevailing wage applies because landfills are a giant construction site. What are prevailing wages? They are wages paid to employees in the trades and crafts on a public works project, which is defined in code. It means it is a public works construction funded by a public agency. Wages differ based on wage type, based on region, and by type of work. Prevailing wage is not a minimum wage, not a living wage. When it comes to levels, we've got minimum wage, then living, then prevailing wage at the top, it's basically a union wage. The history of prevailing wage comes out of a social policy from the government in Kansas in the early in 1890s to encourage fair labor practices. Government is a buyer of construction services, it could be an economic driver for constituents to make enough money to support their families. It morphed in the 1920s and 1930s and really took off, but with an element of racism and xenophobia when the Davis Bacon Act was passed. Thirty-two states have their own prevailing wage laws, which is referred to as mini-Davis Bacon. Ten states have repealed prevailing wage laws for a variety of reasons, mostly occurred in the 1980s. What's changed over time is that now it ensures the same wages to union and non-union workers. Studies have been done that show prevailing wage does not demonstrably increase project costs over the long term. When are prevailing wages necessary? It's for construction trades and crafts; all construction related, including alterations to a public work, street or sewer work, maintenance work.

Paul Beck, Partner with Lewis Brisbois Bisgaard & Smith LLP, said when interpreting these obligations from the courts and Department of Industrial Relations (DIR), the one trend that you see is that more and more types of work are being covered by prevailing wage laws. If DIR can find a nexus with the work being done, they will say it's a public work construction. Courts interpret these laws broadly, give exceptions narrowly. Why are these goals advanced by the courts and DIR? Protections for workers from substandard wages, allows union and nonunion contractors to compete on a more even playing field in terms of pay and fringe benefits. This provides compensation to nonpublic employees for lack of benefits. Theory if employees are well paid, well trained, and taken care of, project efficiency and quality will increase. Mr. Beck gave some examples, such as a public agency leasing property to a developer, but developer gets rent break. It's subject to prevailing wage because the public entity would benefit the entity responsible for the work.

Ms. Collins said it gets hazy when its built by private developer. Public subsidy triggers prevailing wage requirement.

Mr. Beck continued with the next example, an agency trying to redevelop an old mall enters into an agreement with the developer to build and operate a theatre for ten years on property purchased from the agency at market rate. Agency loans developer millions to operate theatre, to be re-paid if the developer does not operate the theatre at end of the ten period. And the Agency builds parking lot. Yes, prevailing wage applies to the development of the theatre because the totality of the project is a public work, it has infrastructure to support the project. Ms. Collins noted how you can see how prevailing wage has evolved.

Mr. Beck provided a third example of a prevailing wage care. An exporter of petroleum leased land from agency and operated open air coke storage facility. Air Board rules changed, and the exporter was going to need to comply with air regulations and add conveyer system. Agency landlord entered into 2 different contracts. One to build conveyer system, subject to prevailing wage. The second [contract] was for enclosing the facility done by tenant and private contractor with no public subsidy. Prevailing wage applied because of the entire project.

Mr. Beck's last example was a district contracts with a solid waste company to operate landfill located on public property. Does the operator have to pay prevailing wages? To whom? There isn't a court decision on this one. But we have 2 Attorney General opinions. One from 40 years ago said the construction of landfill was covered [under prevailing wage], but what about others, like those who take fees at the gate, or direct traffic. In 2000, another Attorney General opinion came out about waste transfer station. The waste transfer station is already constructed. [The opinion] said not only are people who work at the waste transfer station not covered [by prevailing wage], others not subject to prevailing wage. There have been no further statements from the Attorney General. There are certain aspects that not entirely clear—like temporary workers to pick up papers.

Larry Sweetser, ESJPA Consultant, said a lot of maintenance activity comes in to do repairs. All those small tasks, how do they fit in? Mr. Beck answered that the maintenance part is an odd duck. Landscaping, for example, is under maintenance. I would say if you want to be safe, you should pay prevailing wage.

Mr. Wylene asked a clarifying question, whether thresholds for exemptions are for prevailing wage or for registration requirements. Mr. Beck answered that it was likely for prevailing wage. Mr. Sweetser also asked for clarity on the obligations of the jurisdiction, and Mr. Beck said the obligation is ultimately on the contractor to pay prevailing wage.

Ms. Collins also gave a briefing on the Kaanaana vs. BBSI case. Currently before the California Supreme Court. By way of background, we got a call from another agency to bring it to her attention last year. Our client since 1923, didn't know there was a lawsuit involving our own client. We have temporary workers to do belt line sorting at the MRF. That contractor is BBSI. They were sued [class-action lawsuit] based on insufficient lunch breaks. Wage should've been a prevailing wage. Case is about prevailing wage at public facility without public agencies as a party. Didn't get treated by prevailing wage specialists. At the trial court, BBSI won. Appellate court reversed the decision that originally ruled in favor of BBSI. Appellate Court said the statute just says, "work done," not construction work, and prevailing wage applies. Labor Code 1720, which defines public work, says it's all type of work. What this means is that every operational worker must be paid prevailing wage. It upends our traditional notions of what is prevailing wage and when is it paid. Challenge to be heard by California Supreme Court next year. Opening brief filed in May. Opposition brief filed in July. Amicus brief being prepared now, due in September. Trying to avoid prevailing wage mission creep.

Curt Fujii, gave an example that landfill operators are generally considered to be different from construction operators because they work 12 months a year. With that basis, he has heard DIR issuing a special landfill equipment operator prevailing wage. Further, Mr. Fujii said what Local 3 has done is negotiate lower wage rates for equipment operators working for a private

company operating a landfill under contract with a public agency. Mr. Beck responded that first, its more task related. It's about constructing on the landfill, not intermittent work. Secondly, certain parts of the law entail project labor agreements. Could be talking about that, which is permissible under other portions of law.

Tom Valentino, Lassen County, asked if any publicly owned and privately-operated landfill is being paid prevailing wage. Ms. Collins there is one that she's aware of. Mr. Valentino continued, asking if it was safe to assume a blanket across the waste industry that at any publicly owned facility that's privately operated will be affected by prevailing wage. Ms. Collins responded that they should all be prevailing wage right now, it's a construction contract.

Mr. Wylene asked what is the prevailing wage that applies? Northern California and Southern California work different in practice. What you actually have to pay is different.

Tedd Ward, Del Norte County asked if there are solid waste agencies clearly utility district or improvement districts? Mr. Beck replied no. Mr. Ward continued, said from a solid waste district perspective, he is concerned with clean-up activities done by volunteer groups. Means that would harm his ability to clean up anything. He would like that point brought forward. Don't want beach clean ups to be shuttered because of volunteer agreements.

Mr. Beck said one of the arguments we'll make in the appeal is that new tasks, the state doesn't have a waste sorter category or volunteers, etc. I think the argument is that it's been operated this way for 80 years.

Eric Miller, Butte County, said they have stalled projects. Let's assume if we load trucks with county staff, how far down the line does prevailing wage go? There's transportation involved. Mr. Beck said truck drivers are entitled if they are transporting construction and demolition waste.

Justin Nalder, Mono County, asked about the scope of work. If we bid for an operator, does prevailing wage apply for the operation? Mr. Beck replied yes, but it depends on the task. Mr. Nalder asked if he can call out the positions that require prevailing wage? Ms. Collins said yes. Not those collecting tipping fee, for example. If there's a category at DIR, then prevailing wage. Only pay prevailing wage for certain job classifications.

Rachel Ross, Tehama County, said have gotten sued over prevailing wage before. Case ruled in contractors favor that they don't have to pay prevailing wage. Ms. Collins said risk is on contractor, not on you. But the cost is on you.

Doug Kobold, CPSC said when he ran Yolo County landfill, he found an obscure Public Resources Code in regard to landfill maintenance and Operation. In that code, it said the landfill operation is not subject to the Public Contract Code. Mr. Beck cautioned that it probably doesn't exempt it for labor code. Mr. Wylene noted it may be an exemption from bidding in contract code and not necessarily prevailing wage in the labor code.

B. County Operations Presentation

Jim McHargue, Director of Solid Waste, Amador County, gave a presentation on outreach and education that he conducts about the state of solid waste and recycling for schools. The main purpose of the presentation is to get kids thinking.

C. Report from CalRecycle

Julie Trueblood with CalRecycle gave an update on CalRecycle. Finishing 2019 site visits for review cycle, they look at 5 areas of diversion: commercial, residential, construction, demolition, internal government programs, and household hazardous waste. Butte and Shasta were close to hiring somebody, so we'll be doing Fall visits. CalRecycle have brought on Jeffory McDaniel, has Mono, Inyo, Madera and Mariposa counties. Bear with us if we have follow-up questions in some areas. This time around we touched on AB 1594, alternative daily cover. As of January 1, 2020, green waste will count as disposal not as diversion. We're asking how you're planning for that. RDRS, reporting system, your county coordinator is off the hook. Will now come from transfer processors. SB 1383 regs had a second 15 day comment period. The final draft will be coming out in September, will go to Office of Administrative Law. January is our one-year mark. Funding—farmer and ranch cleanup program is undersubscribed. Application date is open until November 7th. Tire grants are due October 31st. Tire incentive program is due October 22nd, there is $3.5 million available. Greenhouse Gas program and RMDZ loan program applications are due. Next public meeting is August 20th public, then September 17th.

## VI. Legislative Update

John Kennedy, Legislative Affairs Advocate for RCRC, provided a legislative update. Said we just came back from summer recess, in the final stretch. The vast majority are in Appropriations or on the Floor, then it's off to the governor. The following bills were summarized:

AB 187 by Assemblymembers Cristina Garcia and Frank Bigelow; used mattress recovery and recycling act.

- Makes a number of governance and management changes of the mattress program. We were interested in expanding access for consumer drop off in rural areas. One location in each county, except Alpine. There was a problematic provision regarding commercial hauling, it was removed. Would've required landfills to take free mattresses if they got more than 1000 per year; that has also been removed. Focuses on what happens to MRC if they're decertified—had issues with other stewardship programs.
- Steve Rodowick, Butte County, said regarding pursuing expanded collection, there's not enough processing capacity.

AB 815 by Assemblymember Aguiar-Curry; dual stream recycling incentives.

- Very unconventional. Caused concerns with a number of jurisdictions, has intent language to not withhold a good faith determination. With that, some organizations have gone neutral. It is one step away from the Governor's desk.

AB 827 by Assemblymember McCarty; commercial and organic waste recycling bins.

- This is on Senate Third Reading. Generators, not full service restaurants, have to have organic and recycling bins available to customers. Duplicative of SB 1383.

AB 1509 by Assemblymembers Mullin and Berman; lithium ion battery recycling bill.

- Lots of stakeholder interest to have proper collection and disposal and decrease risk. Needs more work, made a two-year bill. Hopefully we have something new in January or next year.

AB 1583 by Assemblymember Eggman; California Recycling Market Development Act.

- Some groups, including RCRC, trying to hold this bill open for generator fee. It eliminates chasing arrow symbols, still have code. Extends for 10 years market development zone and CAEAFTA [California Alternative Energy and Advanced Transportation Financing] program. Only bill alive that extends sunset date for CAEAFTA program. CAEAFTA is sales and use tax exclusion for manufacturing equipment. Tesla is a big beneficiary. My understanding is UAW weighed in and now opposes due to Tesla because its non-union. Interesting case study of politics and missed opportunities. RCRC strongly supports the bill.

SB 68 by Senator Galgiani; treated wood waste.

- Heart of the bill repeals the sunset date of treated wood waste program. DTSC has a huge structural deficit, mentioned in the budget the need for the Administration to enhance revenue collection—like raising fees. These bills have an impact of DTSC's budget, even minor, but DOF is calling out the deficit to call for a veto of certain legislation.
- Larry Sweetser said if this bill doesn't go through, treated wood waste will have to go to hazardous waste landfill. Big deal in that respect.
- Broad coalition of support.

SB 667 by Senator Hueso; infrastructure, organic waste recycling.

- CalRecycle must develop a needs assessment to achieve SB 1383 mandates. RCRC is supportive. Leverages the Treasurer for innovative financing mechanisms for organics infrastructure. Cap and Trade appropriation didn't happen, only got $25 million from budget.

SB 726 by Assemblymember Caballero; household hazardous waste

- Primarily addresses smarter sorting for Household Hazardous Waste. DTSC had some heartburn, we've worked out language with CPSC.
- Doug Kobold, CPSC, clarified that you can have a re-use program and send material out to a third party. Clarify with CUPA and DTSC. DOF is the only entity opposed.

AB 1080/SB 54, by Assemblymember Gonzalez-Fletcher and Senator Allen, respectively; plastic single use packaging.

- Seek to require manufacturers to reduce waste generated from single use packaging by 75% by 2030. Impose requirements on priority plastic, has to achieve recycling targets; it is a rates and dates bill. Some exemptions for pharmaceuticals, pesticide packing. Concern over food packaging and FDA approval. Trying to work with authors to address lingering concerns, such as making the bill focus on applying to manufacturers only, not local jurisdictions. CalRecycle will have to define recyclable and compostable. Local governments will have to respond to CalRecycle doing this. Amendments would make it voluntary for local governments to provide this information to CalRecycle. Fear is that manufacturers have no comprehension of end cycle of their products. They're going to come to us, we'll have to do segregations of products at MRFs. That'll be impossible. Self-certification process from manufacturers is being considered. Lots of details to flesh out. Talking about funding to CalRecycle, like deposits. Carefully monitoring, heavily involved in negotiations.
- Tedd Ward, Del Norte County, feels like this is important for packaging engineers be trained. Mr. Kennedy said it speaks to other problems, like replacing cardboard boxes with new packaging materials that have to be dealt with like plastic shopping bags. Don't want product substitutions to be even less recyclable that what we already have.

Lastly, the Bottle Bill. Re-planet just closed the last of their facilities. Bottle bill is a perineal end of session play. Have 4 weeks to try something and figure out what that is. Need to increase consumer convenience, otherwise it's a regressive tax. Moving towards increased payments for low-volume recyclers to increase infrastructure. Streamlining CalRecycle process to certify new recycling centers. People don't want broad reform of CalRecycle right now, need to get it right in a longer process.

Finally, the generator fee, need mechanism for minimum payments for local jurisdictions to comply with SB 1383. Not clear this will move forward in the next 4 weeks, but perhaps next year to meet our mandates.

Steve Rodowick, Butte County, said the bottle bill, cross-state movement is a problem. Are there talks of multi-state pact? Mr. Kennedy replied no, there are no talks going on about that that he's aware of. CalRecycle is trying to ramp up inspections and enforcement. They've had some eye opening fines and penalties against some bad actors.

## VII. Member County Concerns/Comments

No comments or concerns were raised.

## VIII. Solid Waste/Regulatory Update

A. CalRecycle
- AB 901 Recycling and Disposal Reporting Regulations

Larry Sweetser, ESJPA Consultant, said we're in the midst of it. Have to start tracking the information, lots of confusion over what to track. Getting questions from service providers to understand the system. Have one more quarter under the old system. Next annual report is going to have a little bit of both of the tonnage. A test drive of new session is coming up on the 26th. Tehama county will be the guinea pigs to test it, iron out wrinkles. You're charged with coming up with different information, suggests tracking everything and then figure it out later during reporting. Don't want missed loads. You do have some flexibility. Will have to figure out scale issues, got a scale exemption. Keep the questions coming. check in with your service providers. Heard from one county that their hauler refused to register. That'll be interesting.

B. State Water Resources Control Board
   - Landfill PFAS Orders

Larry Sweetser, ESJPA Consultant, said the new part of that is legislation was passed for public drinking water testing. Effects leachates, not landfills. New public tool with mapping. So far the paranoia haven't come true. For those of you not ordered to test, its coming. Going to become standard.

Don Renz, Shasta County, asked about load check program, testing for Teflon. Mr. Sweetser said some of the sampling equipment has Teflon. It's very challenging.

Tom Valentino, Lassen County, asked what is going to happen with this, and testing is over the threshold. Mr. Sweetser said he doesn't know yet. Don't want to think that far ahead. It's a nationwide issue. California was behind on testing which is why it came up.

   - Storm Water Industrial General Permit

Larry Sweetser said in your packet there is an opportunity for training on Monday at 9am. I plan to be there in person. Good thing to listen into and take some notes.

C. Extended Producer Responsibility
   - CA Product Stewardship Council Update

Doug Kobold, Executive Director, CPSC started off thanking ESJPA for contributions to move us at CPSC along. Before he gave an update, he acknowledged Steve Rodowick. He's had a perfect attendance record for every meeting of our Board—including holiday parties. He's been on our Board for three years, involved with our organization since 2012. Happy we get to keep him on our Board.

The following bills were highlighted:

- AB 1509: CPSC and Californians Against Waste are sponsors. Will be working collaboratively to solve lithium ion battery, fires problem.
- AB 729: carpet bill. Need it to get through. Sad campaign against it, "get rid of the carpet tax."
- SB 424: e-cigarettes are a huge problem for Household Hazardous Waste handlers. Want manufacturers to have a stake in this game and take these devices back.

- SB 726: Household Hazardous Waste bill.
- Mattress bill. Want to make it productive and useful.
- AB 1080/SB 54: both have new, substantial amendments as of yesterday.

Regarding SB 212 rulemaking, the informal draft regs looked pretty good. CalRecycle did a good job on the first round. Should go on time and have an excellent statewide program.

DTSC formal rulemaking for solar panels started in April 2019, has to finish by April 2020. Substantial changes are needed. Found out in October that DTSC doesn't have the authority to do U.S. products, need authorization from Federal EPA. Finally, last month, put in their request to U.S. EPA for authorization to designate solar panels as universal waste. Told that's a one year process after submittal of an application. Not sure if that authorization can occur before April 2020 deadline.

Nate Pelczar, CPSC, spoke about DHCS, medicine bins. We have a grant placing 300 bins across the state, if your jurisdiction wants one let me know. Taking applications, takebackdrugs.org.

- Mattress Recycling Council Update

Liz Wagner, Special Projects Coordinator, Mattress Recycling Council said they turned in their 2018 Annual Report to CalRecycle. Will be at public meeting on Tuesday, we'll see what their recommendation is. Rural counties have 78.5% access to a collection site or event, 75.7% of rural counties have access to a permanent collection within 15 miles; 93.2% have access within 25 miles. Will continue to expand the network. We're hiring for a Central California coordinator. Will help with access we can provide, please refer interested candidates her way. Close to making Glenn county a permanent site. Have our second grant cycle open for collection sites. Open to sites that aren't operational yet. Expected to expand our collection network and get sites to come on board. Still committed to expanding network and get one site per county. Regarding processing capacity—not touched on in law. Have enough capacity, but it's a matter of getting it where it needs to go.

Tedd Ward, Del Norte County, said he appreciates what MRC is doing, to try to roll things out, but we still don't have daily collection. Access to events have expanded, but thinks MRC should use money to pay the contracted amount directly, rather than through a grant. Ms. Wagner replied that MRC wants to pay to cover costs, but we don't want to pay higher rates to cover revenue. It's not a sustainable model statewide. Working hard to get permanent sites.

- CARE Update

CARE representatives were absent.

- PaintCare Update

Daria Kent provided a PaintCare update. Said Washington state is onboard, exciting to go out to bid. Regarding options for rural counties, they have most of transfer stations and landfills

on board. Trying to do site improvements at retail stores that are underserved. Want upgrades to keep bins out of the elements—like sun and rain. One more aspect to help the program run well. We asked that you get re-use invoices to us by August 1st. Upping commitment to get more re-use. Open to ideas to expand your re-use area, please talk to your coordinator.

Larry Sweetser mentioned in counties that have experienced fire, there has been a receptiveness to get paint out to those communities. Vendors are willing to help out.

## IX. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday, October 17, 2019.

Tedd Ward, Del Norte County, suggested CRRA with SWANA workshops. We're having an October 17th Workshop, status on legislation and next steps. Might be some interest in making this the afternoon program, but it would not be located here. It is at CalRecycle during the afternoon, time is to be determined. Staci Heaton, Program Manager, said she would put the time and location of this meeting on the October agenda and defer the TAG session.

Larry Sweetser suggested the application period for USDA grants, opening October 1st. Can use that for various studies, training. Opportunity for counties. Maybe someone from USDA can come, it's a tricky process.

## X. Articles of Interest

None referenced.

## XI. Solid Waste/Regulatory Update, continued

### A. CalRecycle, SB 1383 Short-Lived Climate Pollutant Regulations

Mary Pitto gave an overview of SB 1383 Regulations. Changes that were proposed did respond to some of our concerns, but it also created some new problems. Route review went from quarterly to annually, or can use a new alternative to require an extra collection run and sorting area for random sampling, determine contaminants, which seems like it would be more labor intensive, making route review the better option. New waiver until 2025 to collect organic waste for residential, however, still on the hook for other requirements like monitoring, capacity planning, procurement, education and outreach. In the original packet, they had extended exclusions for urban counties, upped those figures from 50 persons per sq. mile to 75, and in census tracks from 5,000 to 7,500 persons in urban areas. Because census tracks are so large, we asked them to allow jurisdiction to take out one area of census tract that causes you to go over population thresholds. Asked that the 19 counties with 5-year exemption be exempted from all program requirements. Doesn't make sense to spend time monitoring a third of the state, or 4% of the waste. They added bear exclusion, but not for lower areas below 4500 feet. We've also suggested that local jurisdictions can grant those waiver requests, not CalRecycle. Still asked for the ability to apply for an exemption for special circumstances. CalRecycle added in an exclusion from homeless encampment, illegal

dumping sites, quarantined materials. Don't have to recycle, can dispose those. Language requirements are a little stiff, asked them to revise with local public health departments. There's a problem with CalGreen standards and enforcing them. Added in model water landscape ordinance too. Ties in with edible food recovery programs. Putting these in solid waste division is inappropriate. We have no authority over these departments. Still asking for reconsideration of that. Regarding capacity planning, they're asking too much. Procurement improvements were made, made a range of renewable natural gas. Don't believe they can mandate procurement. With enforcement, failure to provide staff resources or sufficient funding is not considered substantial effort. The penalty section is concerning—these are supposed to be goals and targets. That makes it a mandate. Besides that, nothing is more angering than the penalties. States and Feds and schools get put on a list of shame, not subject to penalties, for meeting their goals. Have a real hard time with them saying this is not a mandate on local governments. We've asked for performance-based goals in rural areas that would exempt them from monitoring requirements, etc. On page 33, Attachment A are specific comments, through page 44. On page 45 is the attachment of census information we gave them. Attachment C is additional information on the bear habitat. These regulations are comprehensive and cumbersome. We spent a lot of time on this, but every time we went through it we found something else. It has been very overwhelming.

Tom Valentino, Lassen County, asked how our comments have been received. Ms. Pitto said we haven't heard back yet. But in the past, they've made attempts at some concessions. But because of penalty section, it's not going to be enough. Needs to be like AB 939 with good faith effort, then it would be a goal that we're working towards. Larry Sweetser added that lack of funding is written in there that it's an excuse not to comply with the program. They're receptive to listening, understand the dilemma, but don't want to lose the big picture. Ms. Pitto said the issue is they've made a goal and its unattainable. They haven't addressed that you can't build the facilities. Even if you had the money to build it, you can't permit them.

Tedd Ward, Del Norte County, expressed this appreciation to this group on this effort. We don't have the time and ability to do these comments.

Greg Stanton, El Dorado County, asked where is material going to go? Ms. Pitto said its good question. Even if you have the capacity and collect it, what happens to the end product?

Steve Rodowick, Butte County, asked if there are projections on our good efforts where we'd end up? How many would end up subject to fines? Have we played out that scenario and presented it to CalRecycle? Mr. Sweetser said we did that with the infrastructure study.

Curt Fujii said you can interpret what's written to mean something else similar. Response is not what's intended, but we've seen good intentions go astray. Can we document their intention? Mr. Sweetser said they have to write a statement of reasons, don't know what'll be in the final one though.

Ms. Pitto added that Water Board retrofitting requirements are coming. Will shut down some existing composting facilities.

Tedd Ward said the issue in our county is ranch land. Composted cow manure is $15 per truckload. I can't compete with that. Where's my market?

Ms. Pitto said CalRecycle will respond to some of the comments and make some clarifications.

B. Grant Program Update

Larry Sweetser gave a Grant Program update. Asked if everyone got their OPP report in. Due by midnight. TA4 is due at end of month. Did get TA5 for Mariposa, Tuolumne, Inyo, Colusa, and Sierra. Applied for USDA grant again. Mostly looking at rural area grants. We do training and develop rural survival guide on organics management, like we did on other changes. They wanted a few more documents, was difficult to apply during the government shut down. You may also want to apply for that. Lastly, also have 303 forms due for Hazardous Waste. Have had a number of oil centers get told, when their tank is full, that they can't get rid of it. If you've had a staff change in the oil period, you may have missed the notice.

C. Highlights of July/August CalRecycle Meetings

Larry Sweetser gave an update of recent CalRecycle meetings. Said some got Household Hazardous Waste grants for next cycle (Del Norte, Siskiyou). Tehama, Glenn, Mariposa is on the wait list. Approved funding for local conservation corps. They're getting funding from the state, closest one for Northern California is in Sacramento. They went out to Trinity for a few days for a tire event. They can help take some things off your plate and be useful. It's a lot of money out there we may be able to take advantage of. GGRF funding allocations, had $13 million and $25 million for organics grant, organics grant, etc. for FY 18-19 and 19-20. Not sure about rural set aside. Workshop on illegal disposal, farm and ranch clean up. Getting funding and being eligible for illegal dump clean up: Tedd Ward said it helps fund their code enforcement officer. Finally, Mr. Sweetser said an upcoming meeting has a workshop on EIR for 1383. MCR annual report is due. Had an interesting conversation on definition of rural. No fixed definition, tried to reach a commonality.

D. Other Regulatory Announcements/Issues of Interest
- CalRecycle In the Loop
- Cal EPA CUPA Newsletters

Jim McHargue referred to the information listed in the Board packet.

**XII. Adjournment** –was called at 1:45 pm.

Respectfully Submitted,

Leigh Kammerich, Regulatory Affairs Specialist

**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 – JIM MCHARGUE, AMADOR COUNTY
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

# Rural Counties' Environmental Services Joint Powers Authority Board of Directors' & Technical Advisory Meeting Rural County Representatives of California Board Room 1215 K St., 16th Floor Sacramento, CA 95814

## Thursday, June 20, 2019

**MEMBERS REPRESENTED**

| | |
|---|---|
| Jim McHargue, Director | Amador County |
| Todd Storti, Deputy Director | Butte County |
| Denise Carter, Supervisor | Colusa County |
| Michael Azevedo, Assistant Director | Colusa County |
| Tedd Ward, Director | Del Norte County |
| Lori Parlin, Supervisor | El Dorado County |
| Talia Richardson, Manager | Glenn County |
| Lars Ewing, Public Services Director | Lake County |
| Ahmad Alkhayyat, Director | Madera County |
| Sam Cerveny, Manager | Mariposa County |
| Justin Nalder, Superintendent | Mono County |
| Bob Perrault, Director | Plumas County |
| Michael Kobseff, Supervisor | Siskiyou County |
| Rachel Ross, Agency Manager | Tehama County |
| Diane Radar, Deputy Director | Trinity County |
| Gretchen Olsen, Solid Waste Manager | Tuolumne County |

**STAFF IN ATTENDANCE**

| | |
|---|---|
| Stacy Heaton, Program Manager | Rural Counties ESJPA |
| Larry Sweetser, ESJPA Consultant | Sweetser and Associates, Inc. |
| John Kennedy, Legislative Affairs | RCRC Governmental Affairs |
| Leigh Kammerich, Regulatory Affairs Specialist | RCRC Governmental Affairs |
| Mary Pitto, Regulatory Affairs Advocate | RCRC Governmental Affairs |
| Elizabeth Jensen, Accountant | RCRC |
| Sanjay Lee, Accountant | RCRC |

**GUEST SPEAKERS**

Joe Rasmussen, CalRecycle
Nate Pelczar, CPSC

Heidi Sanborn, CPSC
Michael LaRussa, MRC
Lisa Mekis, CARE
Nichole Dorr, PaintCare

**OTHERS IN ATTENDANCE**

| | |
|---|---|
| Diane Green, Solid Waste Technician | Tuolumne County |
| Steve Rodowick, Coordinator | Butte County |
| David Garcia, Program Manager | Nevada County |
| Eric Miller, Manager | Butte County |
| Cap Aubry, Superintendent | Inyo County |
| Kati Galvani, Deputy Director | Lake County |
| Lavell Waiwaiole, Coordinator | Calaveras County |
| Curt Fujii | Fujii Civil Engineering |
| Spencer Five | CalRecycle |
| John Duke | CalRecycle |
| Willie Carpenter | CalRecycle |
| Ward Danner | CalRecycle |
| Roberta Jetter | CalRecycle |
| Howard Levenson | CalRecycle |

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

Supervisor Kobseff, ESJPA Chair, called the meeting to order at 9:01am. A quorum was determined. Self-introductions were made.

## II. Business Matters

Discussion and possible action related to the following:

A. Approval of Minutes from the Meeting of March 14, 2019

Supervisor Kobseff, ESJPA Chair, called for the approval of the minutes from the March 14, 2019 meeting. The motion to approve the minutes was made by Jim McHargue from Amador County, and seconded by Tedd Ward from Del Norte County.

B. Review and Approval of the Independent Auditors' Report and Financial Statements for the Year Ended December 31, 2018

Elizabeth Jensen, Accountant for RCRC and Sanjay Lee, Accountant for RCRC gave an overview of a financial audit for the last year and received a clean audit. Mr. Lee said the ESJPA had a great fiscal year, had high activity. ESJPA operates two grants, a tire grant and oil grant. The grant activity detail can be found in the agenda packet. ESJPA is at 162% revenue. In comparison to 2017, grant spending was up but administration costs were down. Mr. Lee said that was the biggest change overall.

Tedd Ward from Del Norte County said things are working in the right direction. He moved for approval on the Independent Auditors' Report and Financial Statements for the Year Ended December 31, 2018. Gretchen Olsen, Tuolumne County seconded. The motion was approved.

## III. Public Comment

Tedd Ward, Del Norte County requested the possibility to have an online webinar or dial in phone number to benefit to the group. Face to face meetings are ideal, but there are situations where we can't attend the meeting due to travel. Staci Heaton, Program Manager, responded that the ESJPA would have to explore Brown Act issues. Arthur Wylene, RCRC General Counsel, said there are good reasons to do it, it can be done, but there would be lots of complications. Mr. Ward would like a written explanation on the thought process on this policy.

Jim McHargue, Amador County, sits on the Mattress Recycling Council (MRC) Advisory Committee and went through this very thing to make sure Brown Act being followed. MRC has the ability to participate remotely. But there are initial hurdles.

Gretchen Olsen, Tuolumne County, agrees that if her other staff could dial in they would benefit from the information. Said it would be wonderful to expand that.

## IV. Presentations

A. Prevailing Wage Listening Session and Development of Questions for August ESJPA Board Meeting

Larry Sweetser introduced Arthur Wylene, General Counsel for RCRC and said this topic came out of discussions about a new prevailing wage case.

Mr. Wylene said the purpose of today is not to give a presentation, it is to have a guided conversation on what prevailing wage is and to gather questions for a future presentation. Prevailing Wage shall be paid to workers on public works. The Labor code has a detailed definition of public works. Every word and comma has been litigated, and all have a hidden meaning. Prevailing Wage applies to contracts for maintenance work—routine and recurring. It's a broad definition and there is a great deal of potential dispute. Volunteer work was a litigated issue, but the Legislature stepped in in the early 2000s. Prevailing Wage protects employees from substandard wages. Real purpose of Prevailing Wage and why it's a sacred cow is that it allows union contractors to compete with non-union contractors by leveling the playing field for union contractors. That is the filter through which Prevailing Wage gets set. The Department of Industrial Relations will take the union wage scale and call that the prevailing wage, but it does not necessarily reflect the Prevailing Wage in a given community. The Legislature is very protective of Prevailing Wage. The general motive is to expand it, not to contract it. That is the general trend and what we see. Lots of potential application to solid waste, like maintenance of a piece of equipment at a landfill. Important thing for our perspective is how fact specific these are. The nuances of a project is

going to drive if Prevailing Wage applies—what kind of sorting, etc. Mr. Wylene wanted to underscore that you should talk to county counsel on these issues. The general obligation falls on the contractor, but it comes back to the county. Prevailing Wage will increase costs on the contract. And there is potential liability for the contractor to come back for back wages and penalties and potentially sue the county and say they are entitled to indemnification. Burden and liability can come back to the county. What sparked the discussion at this point is a recent court case, *Kaanaana v. Barrett Business Services et al.* Came as a bit of shock. These sorting facilities would not otherwise be viewed as providing construction, maintenance, etc., but what starts small as subsequent interpretation will result in application of Prevailing Wage at county, city, and JPA landfills. Said we expect a decision in 2020. CSAC, League of Cities and RCRC is working on this but it's an uphill climb. LA Sanitation District will be here in August to give a better overview and answer questions.

Todd Storti, Butte County, asked for clarification on public funds and fees for service provided. In that instance, is it a gift of public funds? Mr. Wylene responded that Prevailing Wage applies to work done under contract, not work directly performed by county employees. Prevailing Wage kicks in when the county hires a contractor to perform public works. To your question, if you contract out the facility and they receive funds from tipping fees, I will refer you to other Counsel.

Todd Storti, Butte County followed up saying if that's the case, what is the county's advantage to operating an enterprise fund? It's not right that they use southern California wages for the entire state.

Gretchen Olsen, Tuolumne County, said the machinery is constantly breaking down and needs maintenance. Asks if there a ratio for doing these types of activities.

Lars Ewing, Lake County, asked about curbside collection done under contract, is there caselaw of curbside collection under contract? Arthur: There was an Attorney General Opinion in the early 2000s dealing with transfer stations. Would probably say it's a good bet that that work did not trigger Prevailing Wage, but talk to your Counsel.

Rachel: There was a question raised locally as to the applicability of prevailing wages to Household Hazardous Waste programs. Arthur: will have to see what the CA Supreme Court says. Stay tuned.

Eric Miller, Butte County, mentioned trying to preserve working capital in the Enterprise fund... let's say Prevailing Wage applies, how far downstream does it apply? These are all commodities, they have values, some negative.

Larry Sweetser said he'll add on to that question; what happens when it goes out of state or out of the country?

Steve Rodowick, Butte County said the same with e-waste.

Curt Fujii asked, in order to protect themselves, does the county need to do anything other than notify the contractor in writing? Mr. Wylene responded that you also have to make sure the contractor pays prevailing wage. County counsel has standard language.

Diane Rader, Trinity County said a good presentation would be about bits and pieces. Design and engineering is an exception. What are the exceptions? Wants to talk about all the ins and out.

Eric Miller, Butte County inquired about Southern California rates and sent an inquiry to DIR and haven't gotten a response to have a Northern California rate. Why does it take so long for DIR to make these determinations? Mr. Wylene responded that there is a formal process to challenge Prevailing Wage rates on a given project, but usually unions challenge that Prevailing Wage is too low, not too high. DIR may think your inquiry is out of the formal process and doesn't have to answer.

B. Recycling and Disposal Reporting System (RDRS, AB 901) Reporting

Steven Sander, Environmental Scientist with CalRecycle, gave a recap of a presentation given on Tuesday in Southern California. Yesterday CalRecycle did a webinar on detailed requirements. AB 901(2015) and AB 1103 (2016), revised reporting requirements. With regard to implementation, registration period was supposed to be done by May 31st. If you haven't, please register at once. Direct reporting will streamline the process, take burden off county staff from compiling this information and submitting them to CalRecycle. Hope for more accurate data, and have confidentiality of data from recycling. The Department gave a one month grace period to register, the law said it was to end April 30th. Reporting entities begin recording information on July 1, 2019. Reporting due dates are staggered, allow for waste flow. Lots of stakeholder engagement with the regulated community. Next workshop is on July 8th at the CalEPA building in Sacramento from 9am to 12pm. Will also be webcast for those that can't travel.

Larry Sweetser added that there will be some additional tracking information and changes may need to be made to data collection. Jurisdictions are not going to collect and submit their quarterly disposal information. The information will come directly from the facilities to CalRecycle. Members should make sure when you're looking at contracts that you have the same data they give CalRecycle.

Steve Rodowick, Butte County asked if disaster debris, starting July 1, will not be considered disposal.

Steven Sander responded that CalRecycle will want disaster debris to be reported, but not attributed to a jurisdiction of origin. There should be no need to apply for the exemption.

Tedd Ward, Del Norte County asked if those that have regulatory relief will continue? Steven Sander said there are some relaxed requirements, but he can't speak to your particular circumstance.

Rachel Ross, Tehama County, said the presentation yesterday was very informative. She is interested in the source sector and how to attribute that. Steven Sander responded that you can use other methods, like billing records, or truck routes. Happy to work with you to determine one. Larry Sweetser said you might need a report from the hauler.

Justin Nalder, Mono County, asked what the purpose is for the use of this information? Is the intent to off-set tons per capita per year? Steven Sander replied that the new data is not used to measure diversion. The legislative intent is to allow direct reporting to get more granular data.

Curt Fujii asked if a franchise hauler delivers solid waste to a county landfill, who has reporting obligation?

Larry Sweetser answered that it's the facility that reports, not the hauler. Also noted one wrinkle is the lawsuit pending on these regulations.

C. Report from CalRecycle

Joe Rasmussen, CalRecycle, gave an overview of recent CalRecycle activities and referred to a handout with more information, including upcoming public meetings and grant opportunities. There is lots going on with SB 1383. He provided weblinks to check out for more information. CalRecycle had a workshop yesterday on June 18th. It kicked off the 15-day comment period for SB 1383. There is a Notice of Funding Availability for the tire program, and the farm and ranch clean-up grant will have a Sacramento workshop on July 18th. A rate determination survey will take place on July 11th.

## V. Legislative Update

John Kennedy, Legislative Advocate for RCRC, provided a legislative update. He started off with bad news that the biomass bills by Assembly members Mathis [AB 257] and Patterson [AB 343] stalled in Assembly Appropriations Committee. He added that these issues may be incorporated into future wildfire conversations.

The following bills were summarized:

AB 1236 by Assembly member Lackey, public resources/greenhouse gases.

- This would've been helpful for a programmatic EIR from CalRecycle to permit organic waste composting facilities. Hopeful that it will come back in future discussions.

SB 724 by Senator Stern, bottle bill.

- Would've given substantial relief to grocers. Would've also given low-volume and rural recycling relief. But the state budget did include $5 million for low-volume recycling.

AB 187 by Assembly members Cristina Garcia and Frank Bigelow, mattress collection.

- This bill responds to an audit that there weren't adequate convenience options. Trying to improve the program with safeguards, accountability, and one permanent collection per county. The requirement for landfills to participate if taking more than 1,000 mattress per year will be coming out of the bill.

AB 815 by Assemblywoman Aguiar-Curry, diversion requirements

- This is the genesis of the Glass Packaging Institute. The author is trying to incentivize dual stream recycling systems, causing concerns with solid waste haulers. Recent amendments clarify that CalRecycle can't use the absence of dual stream collection against a jurisdiction.

AB 1080 by Assemblywoman Gonzalez-Fletcher and SB 54 by Senator Allen, single use packaging.

- This is a response to China's National Sword, marine debris and pollution. Requires manufacturing and retailers to recycle 75% of single-use packaging by a date certain. Gives CalRecycle authority to determine what is recyclable and what is compostable. Local governments do not bear the responsibility, though we did when it was first introduced. This bill is considered a "job killer" by CalChamber. Needs to be clarified further; for example, CalRecycle can ask local governments for recyclable info and have the burden to respond. CalRecycle given a lot of discretion, which makes industry uncomfortable.

AB 1509 by Assembly members Mullin and Berman, lithium ion batteries

- This bill is meant to increase recycling and reduce improper disposal.
- Supervisor Kobseff suggested color coding the batteries.
- John Kennedy responded that some requirements are related to labeling, but its hard to tell; we need to better distinguish those products.

AB 1583 by Assemblywoman Eggman, California Recycling Market Development Act

- This measure is trying to deal with National Sword and SB 1383 (organics waste). It would eliminate arrow symbols. Major things include sunset date extension for sales and use tax exemption for processing or recycled feedstock. Also extends sunset date for market development zone program from CalRecycle. Originally was going to be a vehicle for generator fee

discussion imposed on residents and at the commercial level, including self-haulers. The current discussion (separate from AB 1583) is for $1.50 per month per household, $2-$10 per month for commercial, and $0.50 for self-haul. Funds would go to organic waste mandates, National Sword funding, local government compliance, etc. The focus of the discussion is on where we need to get to on SB 1383.

AB 1596 by the Assembly Committee on Environmental Safety and Toxic Materials.

- Cleanup of fentanyl contaminated properties based on the existing framework for cleanup of methamphetamine-contaminated properties.

SB 68 by Senator Galgiani, treated wood waste.

- There is a fast approaching sunset date. This bill would remove that sunset date.

SB 409 by Senator Wilk, illegal dumping

- This is the only illegal dumping bill still working its way through the Legislature. Santa Clarita area response to an illegal dumper. Makes it illegal to transport waste for illegal disposal.

SB 667 by Senator Hueso, recycling infrastructure

- Originally had Cap and Trade funds for recycling but that was removed. Makes modest changes to get us where we need to get. Requires the state to have innovative financing for organic facilities. State Treasurer Fiona Ma is very interested in this.

SB 726 by Senator Caballero, hazardous waste.

- Larry Sweetser said this bill would clarify and broaden the ability to re-use household hazardous waste products. DTSC has been very helpful in these discussions.

John added that there have been discussions with a Senate Committee on new solar panels with shorter life expectancies. Asked that if you see a trend to please let him know.

Tedd Ward, Del Norte County, said he is very concerned about plastics in general, but [AB 1080/SB 54] is not a circular economy bill and it shouldn't be called that. Also added that lithium ion batteries are a danger to us and our facilities.

## VI. Member County Concerns/Comments

Eric Miller, Butte County, gave an update on a landfill fee survey. He will send the information Staci Heaton for distribution. Many members contributed to it and many would like to see how they land.

Larry Sweetser said he sent out recycling survey and got 9 responses. There are patterns. There's numbers of orders of magnitude, hundreds of thousands of dollars

in some areas of increased costs of recycling. Even traditional recycling like paper and metal are getting harder to market.

Tedd Ward, Del Norte County, spoke about how things have changed over time, suggesting how haulers have changed the control over infrastructure, such as single stream collection. Said Del Norte County no longer has a local processor.

Larry Sweetser said there are ripple effects when bottle centers close. Raises tonnages statewide. Keep that in mind when reports are due about the impacts.

Gretchen Olsen, Tuolumne County said solid waste managers didn't do a good job of being honest about our rates and the rate structures. We hide that in our garbage bills all the time and the public doesn't understand.

Ahmed Alkhayyat, Madera County, said their franchise agreement said the county gets no benefit or loss, now its costing their contractor a lot of money. They wanted him to go to the Board and get a rate adjustment. The calculations is for 1.1% to be added to the rate for one year, amounting to about $0.29 per month. The Board did it even though they didn't have to because they are acting within their contracted time.

Larry Sweetser asked if anyone has not been approached by their contractor. Lars Ewing, Lake County, responded that they raised their rate by adding a fee. It's not popular. Steve Rodowick, Butte County, lamented that the tipping fee has been a $1.40 for a very long time. Increasing that would solve so many problems. Michael Kobseff, Siskiyou County, said his recyclers can't break even. Where is the material going that they won't recycle? Ahmed Alkhayyat said that's why we want a good relationship with our haulers. Larry Sweetser asked how can we help to aggregate some of this? Gretchen Olsen said fees at different locations.

Tedd Ward added that as long as you have a fuel-based economy, plastics will be made. Fundamental thing does not go away. Can't recycle our way out of the problem. Will always going to have single-use plastics being shoved into our hands. Until we change that basic system, that's what we've got.

## VII. Solid Waste/Regulatory Update

A. CalRecycle

- 2019-20 Greenhouse Gas Reduction Fund Budget Allocations

  John Kennedy said there's a long struggle here for SB 1383 implementation. As you know, Cap and Trade has brought in billions in revenues. There was a concentrated effort from local governments to advocate for $100 million from Cap and Trade for solid waste facilities. Had a tough fight, stakeholders were pleasantly surprised when the Senate included $75 million for organics recycling; we were asking for $100 million. Ultimately it was pared down to $25 million, the same amount the Governor initially proposed in his January

budget. But we've raised a lot of awareness in the Capitol as to how much this costs. Several Senators made this their top priority.

- SB 1383 Short-Lived Climate Pollutant Regulations

Mary Pitto reported that a revised draft to the SB 1383 regulations was released Monday afternoon, with a workshop held on Tuesday. Comment period opened yesterday. To summarize, the changes include reduced collection review frequency from quarterly to annually. There was a delay regarding containers color standardization; changed from yellow to brown color. Did change to green and grey or blue and grey, not blue and green containers. Property owners needing to notify tenants yearly was removed for single-family homes. Increased city population and census track waiver density. This may not take care of the problem, said we will try to raise the threshold some more, or do a block group area. Will continue to look into options for that. Calrecycle added in an elevation waiver for bears, but it did not include the requested provision to allow locals to apply if they have bears but are under 4500 feet. CalRecycle made it very clear that the comments we can make can only be on the changes to their draft. We cannot complain about things that they didn't change. They did add emergency circumstances, provisions exempting debris from homeless encampments or quarantined from Agricultural restrictions. Performance based source collection service; provided an alternative to the requirements. You are required to do a lot to be exempted out of a lot. Asked to let her know if this is slightly able to achieve. Regarding education and outreach, revised requirements to allow print or electronic media. For non-English speakers, there are two thresholds: less than 10,000 people has to be available online in their language and noticed in the print media. Greater than 50,000: written material required for that language. For publicly owned treatment works they deleted handling of biosolids and sludge. Edible food recovery—commercial generators must recover unless extraordinary circumstances. County will have to increase the county capacity.

Rachel Ross asked about prisons and tribes. What do we do when we don't have authority over them?

Larry Sweetser mentioned there is a lot to digest. Look at what CalRecycle is going to do under their scenarios.

Mary Pitto further added that they are still holding counties responsible on capacity. Added to requirement of CalGreen, added water efficiency ordinance, don't through the building department. Want jurisdictions to adopt enforceable mechanism in order to fine the county. Will allow use of local waste characterization study.

Larry Sweetser mentioned local waste characterization study are allowed but are only good until CalRecycle's next state-wide study.

Mary Pitto continued that one of the things on procurement, we asked not be included in regulation. It's still in the regs, but they did modify some things like changes the amount of .07 to .08 organic waste per resident per year. Larry Sweetser provided a handout on these calculations. Allow renewable natural gas and others, not just diesel. Reporting requirements, moved the first report to April 1, 2022 from Feb 1. Deleted portion of first report when containers will be in compliance. On enforcement, conduct an annual review, add a study, changed violations to offenses. Deleted daily fine, second offence within one year. Corrective action plans, if its issued due to inadequate capacity, it's up to another 12 months. Revised penalty calculations, based on what percentage you procured.

Tedd Ward said this is going to hit us with a lead boot, caught between bad choices. Unrealistic to have 15 days to review this. But he likes the idea of a program EIR. Supervisor Kobseff asked how we pause the march for SB 1383. Staci Heaton offered to send a letter requesting a comment letter deadline delay; this is not even good APA compliance. David Garcia, Nevada County, said staffing and enforcement alone will be a nightmare and it can't be done.

Mary Pitto finished her overview by adding that requirements for solid waste facilities replaced daily sampling with quarterly periods. Need to sample 10 consecutive days. CalRecycle eliminated daily load checking requirements for contamination but added grey container waste evaluations based on tonnage. A requirement was added to allow for LEAs to monitor the evaluations. LEAs no longer need to observe sample measurement. Eliminated 36-inch soil requirements. That's one good thing. We'll get a letter out asking for more time to review. The ESJAP/RCRC will send in a comment letter and provide a summary at the next meeting. For 70,000 or less population, you have until 2025 to comply with the collection of organics. Going to send out another survey for SB 1383 infrastructure information. Also following up with a phone call to all of you. We need to start planning for implementation. Please take the time to fill out the survey.

- AB 901 Recycling and Disposal Reporting Regulations

  Larry Sweetser did not have anything to add to Steven Sander's earlier presentation. He said CalRecycle will take late registration if you haven't done so already.

- SB 212 Draft Regulatory Concepts

  Leigh Kammerich said written comments are due July 1st on the Informal Draft Regulatory Text. The ESJPA submitted comments in February before the draft text was released, but will be re-submitting comments.

B. State Water Resources Control Board
- Landfill PFAS Orders

Larry Sweetser indicated that members are proceeding with the required sampling. There have been no new developments. He said those jurisdictions that haven't received an order to sample yet receive one in the future

- Compost Waste Discharge Requirements

  Larry Sweetser said there was a workshop on the Environmental Impact Report on proposed changes to the Compost WDR. Facilities will be allowed to take herbivore manure at lower thresholds and there will be allowances for agricultural properties to accept and provide compost.

C. Department of Toxic Substances Control
   - Photovoltaic Modules/Solar Panel Regulations

     Larry Sweetser said these are the Universal Waste regulations are being proposed and the ESJPA provided comments. Regulations are expected to be adopted by the end of the year or early next year.

D. California Department of Food and Agriculture Weigh Scale Issue

   Larry Sweetser said only a couple of counties are experiencing inspection that limit the amount of loads that can be weighed. Doesn't seem to be enforced anywhere else except Tehama County. Lassen County was exempt since they operate their own scales.

E. Extended Producer Responsibility
   - CA Product Stewardship Council Update

     Heid Sanborn gave a general update on grants for gas cylinders. Shasta county got concerned about safety of a gas cylinder grant which was subsequently cancelled. If you have concerns, let them know first. CPSC did a popular webinar on solar panel recycling with a great insert with Butte County. Have a project with DPH on tobacco waste, model ordinance. We're eating a credit card's worth of plastic waste a week. SB 424 by Senator Jackson, JUUL now working with us to try to get more DTSC regs out of the way. Similar to a Senator Caballero bill on your list to make it easier to use or recycle household hazardous waste. We're becoming experts for companies to come to us that say they want to do the right thing, can you get all these rules out of the way. Get ready for a big battery debate next year. Have a workshop next Thursday from 1pm to 4pm in Alameda. Asking counties to pass ordinances on batteries, tobacco, and gas cylinders. Webinar tomorrow on tobacco waste, model ordinances. Newsletter will go out on other webinars. Washington state has first EPR bill for solar panels. National stewardship action council—Dr. Joanne Brash got some work for Nike and other name brands that want to change the tariffs in this country. Companies

want to use sustainable textiles but can't because they can't afford it. Want to create market pull. Exciting project.

Nate Pelczar, Program Manager for CPSC, added that they received a $3 million grant from DHCS to put in drug bins and needs help to get the word out. They pay for bin installation and servicing through 2020.

- Mattress Recycling Council Update

  Michael La Russa, Program Coordinator for Mattress Recycling Council, spoke about collection events that augment permanent collection network. Alpine county, Camp Fire cleanup crews, Del Norte, Tahoe community clean up event (annual), Glenn county, Trinity county. Have upcoming joint event with PaintCare in Sonora.

- CARE Update

  Lisa Mekis, Senior Associate for Carpet America Recovery Effort, said 94 million pounds recycled in 2018. Collection network is growing. The need for new products is growing. Required to have at least one drop off site per county, but don't have one in Colusa, Sierra, Nevada, Merced, and a few other counties. They are working on pilot program in the greater Sacramento area and Los Angeles, 9 drop off sites and new haulers in the greater Sacramento area. Last year the drop off sites contributed 10% of that total. This year its 30%. Your contributions are making a difference.

- PaintCare Update

  Nicole Dorr, Central California Regional Coordinator for PaintCare said the big news is that we're expanding in Washington State. Big win for product stewardship. Lost Orchard Supply. But adding some retail locations backs. Did Fresno, Yolo county site. Recruiting additional retail sites. If you're interested in an event, please contact your regional planner. Focusing on re-use. Having paint available for those who want to take paint, that's new. Sending out a survey, what re-use looks like for your jurisdiction.

  Tedd Ward suggested doing more with paint re-use during HHW event. Steve Rodowick added with Paradise re-building, you could make paint available to underinsured or uninsured during rebuilding projects.

F. Grant Program Update

Larry Sweetser said OPP 10 applications are due June 27th. TA4 ends August 30th. On July 18th, CalRecyle will have a farm and ranch clean-up program workshop seeking input for program improvements.

G. Highlights of April/May/June CalRecycle Meetings

CalRecycle continues to report on jurisdictions that are late to DRS reporting. Larry Sweetser is keeping tabs on compliance orders. CalRecycle is dropping the e-waste fees to keep the funding stable. Collection of CRT continue to decrease in volume requiring changes to the fund. The new fee will be one dollar less per unit size. The Future of E-waste project is continuing but there are no new developments.

H. Other Regulatory Announcements/Issues of Interest

Nothing was announced.

**VIII. Agenda Suggestions, Member County Presentation Volunteer, Workshop Topics for Next ESJPA Board Meeting Scheduled Thursday, August 15, 2019.**

No topics or agenda suggestions were made.

**IX. Articles of Interest**

No articles were referenced.

**X. Resolution of Appreciation**

ESJPA Chairman Michael Kobseff presented a proclamation from the Board of the ESJPA to Mr. Howard Levenson of CalRecycle, recognizing his distinguished career and congratulating him on his impending retirement.

**XI. Adjournment** –was called at 1:18pm

Respectfully submitted,
Leigh Kammerich, Regulatory Affairs Specialist

**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 – JIM MCHARGUE, AMADOR COUNTY
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

# ESJPA BOARD OF DIRECTORS
# 2020 MEETING CALENDAR

| | |
|---|---|
| Thursday, March 12th | RCRC Conference Room |
| Thursday, June 18st | RCRC Conference Room |
| Thursday, August 13h | RCRC Conference Room |
| Thursday, October 15th | RCRC Conference Room |
| Thursday, December 10th | RCRC Conference Room |

** Note: Board of Directors meetings are anticipated to be held from 9:00 a.m. to noon, with a Technical Advisory Group session to follow at 1:00 p.m. Lunch is provided.

ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, DEL NORTE, EL DORADO, GLENN, IMPERIAL, INYO, LAKE, LASSEN, MADERA, MARIPOSA, MODOC, MONO, NEVADA, PLUMAS, SHASTA, SIERRA, SISKIYOU, TEHAMA, TRINITY, TUOLUMNE

1215 K STREET, SUITE 1650, SACRAMENTO, CA 95814 PHONE: 916-447-4806 FAX: 916-447-1667 WEB: WWW.ESJPA.ORG

**Rural Counties**
**Environmental Services**
**Joint Powers Authority**
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PROGRAM MANAGER – STACI HEATON

# MEMORANDUM

**To:** **ESJPA Board of Directors**

**From:** **Lisa McCargar, RCRC Chief Financial Officer**
**Milena De Melo, RCRC Controller**

**Date:** **December 2, 2019**

**RE:** **ESJPA Budget – FY 2020 (Action)**

The proposed 2020 Environmental Services Joint Powers Authority (ESJPA) Operating Budget constitutes our continued commitment to the core functions of providing solid waste planning, solid waste services, regulatory advocacy, and other environmental services. The proposed ESJPA budget for the 2020 calendar year is attached.

## Summary

To better understand the budget, it is necessary to understand the inter-relationship between the ESJPA and Rural County Representatives of California ("RCRC"). ESJPA and RCRC are two separate legal entities, each with their own by-laws and Board of Directors. RCRC is a non-profit mutual benefit corporation with a Board of Directors consisting of County Supervisors who are representatives of the 37 participating counties. The ESJPA, however, is a governmental agency with a Joint Powers Agreement. The Board of Directors of ESJPA consists of delegates (or designated staff "alternates") from the 24 member counties. ESJPA does not employ staff, but instead contracts with RCRC to provide management, technical, and administrative services as directed by the ESJPA delegates. This contract is subject to annual review and follows the budget on today's agenda.

The proposed ESJPA budget includes total revenues of $260,830, proposed expenditures of $258,320, and results in a budget surplus of revenues over expenses of approximately $2,510 for the year ending December 31, 2020.

## Revenues

ESJPA's proposed 2020 revenue includes $130,800 in membership dues. ESJPA's 2020 revenue also includes grant reimbursements in the amount of $130,000, an increase of $50,000 from the year ended December 31, 2019. The increase is a result of higher

anticipated reimbursements related to the Tire Amnesty Grant. The following is a list of current grant activities that are included in the CY 2020 budget.

- CalRecycle Used Oil Block Grants (Alpine, Colusa, and Mariposa Counties)
- CalRecycle Local Government Waste Tire Amnesty Grant (Colusa, Inyo, Mariposa, Sierra, and Tuolumne Counties)

**Expenditures**

The proposed 2019 ESJPA expenditure budget is designed to provide the resources necessary to carry out core functions. The most significant budgeted expenditures are those associated with grant activities. Grant expenses of $130,000 are reimbursable and therefore approximate grant revenues. As described above, anticipated services related to the Tire Amnesty grant increase by $50,000.

Other non-grant related expenses include RCRC Contract Services in accordance with the Board approved ESJPA/RCRC Agreement. As noted above, ESJPA staffing and other allocated expenses are reflected in the $89,000 contract fee to RCRC. This is an increase of $23,000 compared to 2019 budget, primarily due to an allocation of additional RCRC staff whose focus is regulatory analysis and compliance. Other expenditures include ESJPA's share of rent, auditing, and insurance costs.

**Other Items**

From time to time, ESJPA experiences cash shortfalls due to the timing of grant reimbursements. While the current year operating budget reflects a surplus of revenues over expenditures, in 2015, the RCRC Board provided a standing short-term revolving loan facility to ESJPA of up to $100,000. This standing facility remains in effect until cancelled.

**Recommendation**

It is recommended that the ESJPA Board adopt the 2020 ESJPA Budget as shown on the following page.

**ENVIRONMENTAL SERVICES JOINT POWERS AUTHORITY**

**FY 2020 BUDGET**

**For the Year Ended December 31, 2020**

| **Income:** | **2019 Budget** | **2019 Budget** | **Change** |
|---|---|---|---|
| Member County Dues | 130,800 | 130,800 | 0 |
| Contracts-grants/projects | 130,000 | 80,000 | 50,000 |
| Contribution from RCRC | 0 | 0 | 0 |
| Interest | 0 | 0 | 0 |
| Miscellaneous | 30 | 50 | (20) |
| **Total Income** | 260,830 | 210,850 | 49,980 |
| | | | |
| **Expenditures:** | | | |
| Auditing | 4,000 | 3,780 | 220 |
| Community Relations | 1,000 | 1,000 | 0 |
| Conferences Attended by Staff | 1,250 | 1,250 | 0 |
| Contract Support Services | 89,000 | 66,000 | 23,000 |
| Delivery Services | 1,000 | 1,000 | 0 |
| Dues, Fees and Subscriptions | 2,000 | 2,000 | 0 |
| Equipment & Furniture | 250 | 250 | 0 |
| Grants and Contracts | 130,000 | 80,000 | 50,000 |
| Insurance | 6,500 | 6,600 | (100) |
| Legal Fees | 1,000 | 1,000 | 0 |
| Meetings | 6,000 | 6,000 | 0 |
| Board Member Travel and Reimbursements | 2,000 | 2,000 | 0 |
| Miscellaneous | 1,000 | 1,000 | 0 |
| Office Expense | 500 | 500 | 0 |
| Off-site Storage | 1,320 | 1,320 | 0 |
| Rent | 7,000 | 7,000 | 0 |
| Training | 3,000 | 3,000 | 0 |
| Travel-Employees | 1,500 | 1,500 | 0 |
| **Total Expenditures** | 258,320 | 185,200 | 73,120 |
| **Net Revenues over Expenditures** | 2,510 | 25,650 | (23,140) |

11/22/20193:42 PM

**Rural Counties**
**Environmental Services**
**Joint Powers Authority**
**ESJPA**

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TECHNICAL ADVISORY GROUP (TAG)
TAG CHAIR – JIM MCHARGUE, AMADOR COUNTY
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

# MEMORANDUM

**To:** **ESJPA Board of Directors**

**From:** **Staci Heaton, Program Manager**

**Date:** **December 2, 2019**

**RE:** **ESJPA – RCRC Contract Services Agreement – CY 2020 (Action)**

The proposed ESJPA – RCRC Contract Services Agreement for the 2020 calendar year is shown on the following pages and is presented for your consideration and approval.

The purpose of this agreement is to provide personnel services for technical and grant-related activities. RCRC will continue to provide technical and grant-related personnel services to the ESJPA. The terms and conditions of the 2020 contract have changed slightly from the 2019 contract with the addition of support from RCRC staff, which increased slightly. The ESJPA will pay RCRC $89,000 this coming year out of the membership dues for direct ESJPA activities.

The Agreement also provides that the ESJPA will pay RCRC for reimbursable grant-related activities (principally staff time) on a per hour basis calculated monthly. This amount includes direct and indirect personnel costs consistent with the terms and conditions of each grant or contract ESJPA is assigned to implement on behalf of participating member jurisdictions.

Recommendation:
It is recommended that the ESJPA Board adopt the 2020 ESJPA – RCRC Contract Services Agreement.

ALPINE, AMADOR, BUTTE, CALAVERAS, COLUSA, DEL NORTE, EL DORADO, GLENN, IMPERIAL, INYO, LAKE, LASSEN, MADERA, MARIPOSA, MODOC, MONO, NEVADA, PLUMAS, SHASTA, SIERRA, SISKIYOU, TEHAMA, TRINITY, TUOLUMNE

1215 K STREET, SUITE 1650, SACRAMENTO, CA 95814 PHONE: 916-447-4806 FAX: 916-447-1667 WEB: WWW.ESJPA.ORG

# AGREEMENT

THIS AGREEMENT ("Agreement"), dated as of January 1, 2020, is entered into by and between the Rural Counties' Environmental Services Joint Powers Authority, a joint powers authority organized and operated under Articles 1-4 of Chapter 5 of Division 7 of Title I (commencing with Section 6500) of the California Government Code (hereinafter "ESJPA"), and the Rural County Representatives of California, a California nonprofit mutual benefit corporation (hereinafter "Contractor").

## RECITALS

WHEREAS, ESJPA desires to obtain the services of Contractor; and,

WHEREAS, Contractor is competent and willing to provide such services to ESJPA,

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, ESJPA and Contractor (each a "party," or collectively, the "parties") agree as follows:

1. Contractor's Services.

Contractor shall perform the services described herein and otherwise as specified in **Exhibit A** hereto which is incorporated herein by this reference, under the supervision of ESJPA's Contract Manager. Contractor understands that ESJPA may desire Contractor to perform certain additional services related to the scope of services hereunder, and Contractor agrees to perform such additional services when requested by ESJPA in writing. All such additional services shall be performed as provided herein, unless otherwise provided by written amendment hereto, subject only to an adjustment reflecting the cost of such additional services and the time for performance.

2. Contractor's Personnel.

Contractor acknowledges that the personal services of Contractor's personnel are essential to the performance of Contractor's obligations hereunder, and that no substitution of Contractor's personnel so identified may be made without the prior written approval of ESJPA. Contractor shall not subcontract or assign any portion of the services provided hereunder without the prior written approval of ESJPA, except any subcontracted services identified in **Exhibit A**.

Contractor, and its agents and employees, in the performance of this Agreement, shall act in an independent capacity and not as officers, employees or agents of ESJPA. By initialing this Agreement in the space provided immediately below, Contractor acknowledges that this Agreement is complete, that it does not create an employer-employee relationship between ESJPA and Contractor or any person performing services hereunder on behalf of

Contractor, and that this Agreement cannot and will not be modified by any oral representation of employment.

Contractor's Initials: _____

Contractor further acknowledges that its taxpayer identification number is 94-1366200, and warrants that it is responsible for paying payroll or any other kind of taxes resulting from compensation paid to Contractor hereunder.

3. Term.

This Agreement shall cover services rendered hereunder from January 1, 2020, until the earlier of completion of Contractor's work hereunder, termination of this Agreement as provided herein, or December 31, 2020, unless the term of the Agreement is otherwise extended by mutual consent of both parties. Contractor specifically acknowledges that time is of the essence with respect to completing its obligations hereunder, and that any failure to meet deadlines provided herein will result in material damage to ESJPA.

4. Compensation.

For services described in **Exhibit A** as "Non-Grant Related," Contractor shall be paid the sum of $7,583 per month which shall be deemed to include all reasonable actual ordinary and necessary personnel expenses incurred for work performed hereunder.

For services described as "Grant Related" in **Exhibit A**, Contractor shall be compensated in the amount of the actual cost of personnel provided, including direct salary, benefits and related overhead expenses, all as specified in Contractor's invoices. However, if a specific grant program ("**Grant Program**") that the Contractor is administering, hereunder, includes a limitation on the right of Contractor to receive compensation for overhead costs, Contractor's compensation for such overhead costs shall be subject to the limitation specified in the Grant Program. The actual overhead for each hour of work performed by Contractor under this Agreement shall be the amount determined by Contractor's auditors, as adjusted from time-to-time. Nothing herein shall preclude ESJPA from directly contacting granting authorities for each Grant Program to seek the authority to modify any limitation on overhead compensation to be charged against a Grant Program.

Contractor shall submit invoices for services rendered and reimbursable expenses incurred to date not more frequently than monthly for compensation and reimbursement of allowable expenses. Approved invoices shall be paid by ESJPA within ninety (90) calendar days of receipt of such invoices.

The fees provided in this paragraph shall be the entire compensation due Contractor for these services and ESJPA shall not be liable for additional compensation for any of Contractor's time or expense except as provided herein.

5. Work Product; Confidentiality.

Contractor understands and agrees that all documents, information and reports developed in the course of performing its obligations hereunder shall be the property of ESJPA. Contractor agrees to exert its best efforts in the production of such work product of this Agreement. Contractor may retain copies of materials collected or produced hereunder during the term hereof, but in the event of termination of this Agreement, Contractor shall promptly deliver any such materials to ESJPA without exception or reservation.

If, in the course of performing its obligations hereunder, Contractor comes into possession of information known or reasonably expected to be confidential information from any source, Contractor will respect and maintain such confidentiality, whether under state, federal or common law, and be solely liable to any injured person in the event of its wrongful distribution of such confidential material.

6. Nonassignability.

No assignment of the rights nor delegation of the duties of Contractor whether in whole or in part shall be valid unless specifically agreed to in writing by ESJPA.

7. Termination.

A. Either party may terminate this Agreement at any time in the event the other party defaults in performance, fails to perform services in a timely fashion, or otherwise fails to comply with the terms of this Agreement. Either party's default or failure to perform shall be excused if prevented by acts of God, labor disputes or strikes, or other forces beyond such party's control.

B. Either party may terminate this Agreement without cause or default after having given thirty (30) calendar days notice to the other party which indicates which services and/or expenses hereunder are suspended from the date of such notice and the date of termination. Upon such termination, Contractor shall be entitled to compensation for services not suspended and actually rendered and/or expenses allowed to the date of termination and for any unreimbursed expenses otherwise payable hereunder.

8. Attorney's Fees, Costs.

If any action at law or in equity is brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, in addition to any other relief to which that party may be entitled. This provision for the recovery of attorney's fees and costs shall be construed as applicable to the entire Agreement.

9. Indemnification and Insurance.

Contractor shall indemnify, defend and hold harmless ESJPA, its officers, directors, agents, employees and attorneys, from any and all claims, causes of action, damages and losses, whether in law or equity (collectively, "**Claim**") arising from or related to the services performed by Contractor under this Agreement or accruing or resulting to any and all

contractors, subcontractors, materialmen, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies, in connection with Contractor's willful misconduct or negligent acts or omissions in the performance of Contractor's duties and services hereunder.

ESJPA shall promptly notify Contractor of any Claim made in connection with the performance of services rendered hereunder.

In order to ensure Contractor's obligations hereunder, Contractor shall maintain insurance as follows:

(1) Contractor shall maintain a commercial general liability insurance policy in the amount of not less than $1 million per occurrence, and not less than $2 million in the aggregate, from a carrier admitted in the State of California with a Best rating of not less than A-, VIII;

(2) Comprehensive business or commercial automobile liability coverage, including non-owned and hired automobile liability, in the amount of not less than $1 million from a carrier admitted in the State of California with a Best rating of not less than A-, VIII;

(3) Worker's Compensation Insurance as may be required by the California Labor Code for Coverage A (statutory limits) and not less than $1 million for Coverage B (employer liability limits) from a carrier admitted in the State of California with a Best rating of at least B+, VIII;

(4) All such policies shall remain in force during the term of this Agreement and shall be payable on a "per occurrence" basis unless otherwise accepted in writing by ESJPA, and shall be in form acceptable to ESJPA and its insurance advisers. ESJPA shall be named as an "additional insured" on any policy as may be requested by ESJPA and Contractor shall provide certificates of insurance and any endorsements required signed by Contractor's insurer prior to the commencement of Contractor's services hereunder. Any such policies or endorsements shall provide for 30 days prior notice to ESJPA in the event of any termination or reduction in coverage of such insurance.

(5) Nothing contained herein shall be construed as or constitute a limitation of Contractor's liability or Contractor's responsibility in law or equity to indemnify and hold harmless from any and all claims, damages, losses and expenses that may arise by reason of Contractor's willful misconduct or negligence, and all remedies provided hereunder shall be cumulative with all other remedies under law or equity.

10. Jurisdiction and Venue.

This Agreement shall be governed by the laws of the State of California without regard to choice of law if an action is brought in California based on activities outside California. Any action to enforce or interpret the terms of this Agreement shall be brought in Sacramento County, California.

11. Miscellaneous Provisions.

A. Partial Invalidity.

If any provision of this Agreement shall be declared invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

B. Contractor's Qualifications.

Contractor covenants that it is competent to provide the services required hereunder and is licensed and qualified as necessary to perform such services in California and/or as provided herein. Contractor covenants that it will comply with all applicable federal, state and local laws affecting services provided hereunder.

C. Records and Audit.

Contractor shall maintain current and complete books and records relating to this Agreement, including, but not limited to, documents supporting all bids, income and expenditures. Books and records kept shall be original entry books with a general ledger itemizing all debits and credits for work performed hereunder. In addition, where applicable, Contractor shall maintain detailed payroll records including subsistence, travel and field expenses, and canceled checks, receipts and invoices for all such items. Contractor's documents, books and records shall be retained for at least five (5) years from the date of completion of this Agreement, and Contractor shall permit access to audit its books, accounts and records relating hereto, and such records of all business entities controlled by Contractor who participated in the performance of this Agreement. Any audit by ESJPA may be conducted on Contractor's premises, or at the option of ESJPA, Contractor shall provide all such records to ESJPA for such audit elsewhere. Contractor shall refund any moneys erroneously paid; if Contractor has erroneously billed for an amount exceeding five percent (5%) of the compensation paid hereunder, Contractor shall also be liable for the cost of audit in addition to any other penalty.

D. Nondiscrimination Clause.

During the performance of this Agreement, Contractor shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex or sexual orientation, ancestry, physical handicap, medical condition, marital status, or age (over 40).

E. Cooperation.

The parties shall cooperate with each other in the performance of their respective obligations hereunder. ESJPA's Contract Manager shall be Staci Heaton or such other person designated in writing by ESJPA. Contractor's representative for the purpose of any approvals or requests made hereunder shall be Greg Norton.

F. Entirety, Amendments.

This Agreement supersedes any and all other agreements, oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied or referred to herein, and that no other agreement, statement, or promise not contained or referred to in this Agreement shall be valid or binding.

This Agreement is entire as to all of the performances to be rendered under it. Breach of any of the performances to be rendered by Contractor shall constitute a breach of the entire Agreement and shall give ESJPA the right to terminate this Agreement. ESJPA's breach of any of the obligations created by this Agreement shall constitute a breach of the entire Agreement and give Contractor the right to terminate this Agreement.

No amendment or modification of the provisions of this Agreement shall be valid unless made in writing and signed by the parties hereto.

G. Disclosure.

Contractor agrees to make any necessary disclosures and filings required of Contractor under the California Government Code, if applicable.

H. Notice.

Any notice, tender, or delivery to be given hereunder by either party to the other may be effected by personal delivery in writing or by mail, postage prepaid, and shall be deemed communicated as of the date of actual receipt. Mailed notices shall be addressed as set forth below, but each party may change its address by written notice in accordance with this paragraph.

To Contractor: Rural County Representatives of California
1215 K Street, Suite 1650
Sacramento, California 95814
Attn: Greg Norton, President and CEO

To ESJPA: Rural Counties' Environmental Services
Joint Powers Authority
1215 K Street, Suite 1650
Sacramento, California 95814
Attn: Staci Heaton, Program Manager

WHEREFORE, the parties hereto have executed this Agreement as of the date set forth above.

**CONTRACTOR:**

RURAL COUNTY REPRESENTATIVES OF CALIFONIA, A CALIFORNIA NONPROFIT MUTUAL BENEFIT CORPORATION

By:_____

Greg Norton
President and CEO

**ESJPA:**

RURAL COUNTIES' ENVIRONMENTAL SERVICES JOINT POWERS AUTHORITY, A JOINT POWERS AUTHORITY

By:_____

Michael Kobseff
ESJPA Board Chair

## EXHIBIT A

Contractor shall provide professional, technical, administrative, and related support services to the ESJPA as follows:

A. Non-Grant Related Work: For the purposes of this Agreement, "non-grant related work" shall include all services provided by the Contractor for which the ESJPA does not receive reimbursement from a grantor agency. Under the direction of the ESJPA Board of Directors, this work shall include providing advocacy services on behalf of the member county interests; providing technical support services and information distribution; organizing, scheduling, preparing agendas, and recording minutes for ESJPA Board meetings, for the ESJPA Technical Advisory Group, and for the ESJPA Legislative Task Force; representing the ESJPA at conferences, workshops, and seminars, as well as to governmental agencies, trade associations, private industry, and other organizations; facilitating coordination and cooperation between member counties; preparing reports, technical memoranda, grant applications, and other documents on behalf of the ESJPA; managing ESJPA contracts and performing associated administrative and clerical duties; and other related services and projects as may be requested by the ESJPA Board of Directors.

B. Grant Related Work: Upon request by the ESJPA and/or member counties, Contractor shall provide services for the administration and implementation of grant-related projects. Services shall be provided by the Contractor in accordance with the requirements of the grantor agency and shall be consistent with the approved scope of work as described in the grant agreement between the ESJPA and grantor agency.

Contractor may provide requested services to the ESJPA for the following grant programs:

- Household Hazardous Waste Grants
- Waste Tire Grants
- Used Oil Opportunity Payment Program
- SB 332 City/County Recycling Programs
- USDA Solid Waste Grants

Upon mutual agreement, RCRC may provide additional grant-related services, in accordance with the terms of this agreement, for other grant programs as may be requested by the ESJPA in writing.

C. Additional Work: Upon mutual written agreement of the parties, RCRC may provide additional services to the ESJPA beyond those specified above. The basis for compensation to RCRC for these additional services shall be as specified in writing and as agreed to by both parties.

11/29/17

**Rural Counties**
**Environmental Services**
**Joint Powers Authority**

**ESJPA**

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PROGRAM MANAGER – STACI HEATON

# MEMORANDUM

**To:** **ESJPA Board of Directors**

**From:** **Staci Heaton, Program Manager**

**Date:** **December 2, 2019**

**RE:** **Proposed RCRC Solid Waste 2020 Policy Principles**

Each year, the RCRC Board of Directors adopts Policy Principles to help serve as a guide to RCRC staff when reviewing legislation and regulations to determine the appropriate position for the organization and its members.

Traditionally, the Policy Principles are provided to the RCRC Board of Directors in draft form at the December RCRC Board of Directors Meeting. RCRC staff encourages Board Members to share with other members of their County Boards of Supervisors and staff for review, which helps to make revisions to the document. The Policy Policies are formally adopted annually at the January RCRC Board of Directors Meeting. The Policy Principles may also be updated periodically to reflect new issues or policy changes made by the RCRC Board of Directors.

RCRC staff reviewed the current Policy Principles and provided a few modest improvements to the document, including an additional paragraph regarding organics. Please review the attached Solid Waste Section and provide any proposed edits to Maggie Chui (mchui@rcrcnet.org) **in writing no later than January 1, 2019** so these revisions can be included in the January 2020 Board Packet and considered at the January RCRC Board of Directors Meeting.

**Attachment**

- 2020 Proposed RCRC Solid Waste Policy Principles

*WASTE MANAGEMENT AND RECYCLING*

**Alternative Daily Cover.** RCRC supports preserving the use of green waste materials for alternative daily cover as a viable option, and does not support having the Tipping Fee apply to green waste materials that are used as ADC under the current fee structure.

**Disposal Bans.** RCRC supports advanced statewide planning and infrastructure for convenient identification and recovery of all materials and products prior to banning from California landfill disposal or requiring separate handling or processing. RCRC supports active contributions from manufacturers and retailers to establish programs to cover the costs for disposal, recycling, special handling, and/or any public education required for their end-of-life products, before any such disposal bans are implemented.

**Disposal Mandates.** RCRC supports appropriate tools for municipalities to achieve statewide waste diversion goal, including extended producer responsibility, an easing of the permitting restrictions for organic waste processes and other solid waste activities, model program guidelines, and increased funding. RCRC opposes regulatory requirements that do not consider existing infrastructure and capacity and the economic feasibility of new facilities, and that do not provide the flexibility for phasing-in various regions and areas of the state, especially in rural counties.

**Electronic and Universal Waste.** RCRC supports the proper disposal of electronic and universal waste through programs that place the cost of compliance on manufacturers and consumers rather than on county-operated landfills or waste management programs.

**Extended Producer Responsibility.** RCRC supports producer responsibility for financing and arranging the collection and recycling of their products at end-of-life, preferably through product take-back by the manufacturers/retailers.

**Financing State Solid Waste Disposal Programs.** RCRC supports a wide range of options to reform the financing mechanisms for the management of solid waste programs, including: increasing the current tipping fee as a temporary measure; applying new solid waste management fees on aspects of the waste stream that currently have no levies; reforming the programs that CalRecycle manages to limit costs; or, a combination of these options. RCRC opposes an increase in the Tipping Fee or other funding mechanisms for projects and programs that are not part of a direct effort to manage and reduce the overall amount of solid waste.

**Jurisdictional Compliance.** RCRC supports using program-based criteria to determine jurisdictional compliance with statutory waste diversion requirements that incorporate rural considerations. RCRC opposes numerical justifications on program implementation that do not include rural considerations.

**Organics.** RCRC supports robust state funding for infrastructure and capacity building for state-mandated organics waste collection programs. RCRC also supports alternative organic waste collection programs for low population counties, including later implementation dates to allow for capacity and infrastructure building.

**Permitting.** RCRC supports "tiered" solid waste facility permitting and operating requirements with reduced administrative and operational requirements that are commensurate with the limited environmental and public health risks associated with small-volume facility operation in low-density population areas.

# Agenda Item IV

# PRESENTATIONS


# STATE WATER RESOURCES CONTROL BOARD

## ORDER WQ 20xx-xxxx-DWQ

## GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISASTER-RELATED WASTES

CALIFORNIA
Water Boards
STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

**DRAFT – October 15, 2019**

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## Table of Contents

## ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| Antidegradation Policy | State Water Board Resolution 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters of California* |
| Basin Plan | Water Quality Control Plan |
| BMP | Best Management Practices |
| Title 27 | California Code of Regulations, Title 27 |
| CEQA | California Environmental Quality Act |
| EIR | Environmental Impact Report |
| Industrial General Permit | Waste Discharge Requirements for Discharge of Storm Water Associated with Industrial Activities Excluding Construction Activities |
| LCRS | Leachate Collection and Removal System |
| LEA | Leachate Collection and Removal System |
| MSW | Municipal Solid Waste |
| NOI | Notice of Intent |
| NOT | Notice of Termination |
| NPDES | National Pollutant Discharge Elimination System |
| Regional Water Board | Regional Water Quality Control Board |
| ROWD | Report of Water Discharge |
| State Water Board | State Water Resources Control Board |
| U.S. EPA | United States Environmental Protection Agency |
| WDRS | Waste Discharge Requirements |

**FINDINGS:**

The State Water Resources Control Board (State Water Board) finds that:

1. Catastrophic events such as fires, storms, floods, landslides, earthquakes, mass animal mortalities, spills, and other emergencies can create large amounts of disaster-related waste such as burn ash, concrete, wood, green waste, appliances, computer equipment, dead animals, food items, cars, household chemicals, paint, etc., collectively referred to as disaster-related wastes. Waste materials resulting from these catastrophic events may be mixed such that individual components are not practicably separable for purposes of waste management. The occurrence of disasters may also result in secondary disasters. For example, wildfires can exacerbate the risk of flooding, erosion, debris flows, and slope failures as a result of the loss of vegetated cover. Damage from earthquakes and other disasters can affect vital infrastructure, such as water supply and sewer systems, and threaten beneficial uses of waters of the state; power outages and fires following earthquakes can result in mass quantities of spoiled food and other goods requiring disposal. Emergency cleanup activities to address disaster events may create unusually large amounts of waste needing to be disposed in a short period of time, may involve wastes that would not normally be accepted for disposal at a waste management facility, and often necessitate temporary waste staging areas on land or at regulated waste management facilities.

2. The discharge of waste to land in the State of California is an action that is subject to restrictions adopted in individual or general Waste Discharge Requirements (WDRs) issued by the State Water Board or Regional Water Quality Control Boards (collectively Water Boards).

3. California Water Code (Water Code), section 13260, subdivision (a)(1), requires any person (including any city, county, district, or other entity) discharging, or proposing to discharge, wastes within the State of California that could affect the quality of waters of the state, other than into a community sewer system, to file a Report of Waste Discharge (ROWD) with the Water Board. Unless exempted, Water Code, section 13263, subdivision (a), requires that the Water Board adopt discharge requirements for any existing or proposed waste discharges within its area of jurisdiction, except discharges into a community sewer system, even if no ROWD has been filed.

4. For purposes of this General Waste Discharge Requirements for Disposal of Disaster-Related Wastes (hereafter "General Order"), a discharger is any person discharging or proposing to discharge disaster-related wastes. For permanent disposal in regulated facilities such as landfills, the discharger is the owner/operator of the landfill.

5. Issuing WDRs prior to cleanup of emergency wastes requires time that may significantly impede the cleanup of emergency wastes, which would likely increase the threat to public health and the environment. Under emergency or disaster conditions, there is limited time for those performing cleanup of disaster-related wastes to prepare a formal ROWD and for the Water Board to prescribe new WDRs or to revise existing WDRs.

Therefore, to expedite the cleanup of disaster-related wastes, enrollment under this General Order for these types of discharges is in the public interest.

6. For purposes of this General Order, wastes resulting from disaster-impacted areas are herein referred to as "disaster-related wastes."

7. All nine Regional Water Boards adopted waivers for disposal of disaster-related wastes, but many large disasters and clean-up efforts cross regional boundaries. This has resulted in delays in clean up responses due to differences among Regional Water Board requirements. Additionally, waivers expire every five years and require additional staff time to update and renew. Water Code section 13263, subdivision (a), provides the State Water Board with authority to issue WDRs for any proposed or existing discharge that could affect water quality. This General Order provides statewide conditions allowing for a more efficient response. If a discharge is covered by a Regional Water Board Order for disposal of disaster-related wastes, the operation may continue under that authority until those orders expire or come up for renewal. At that time, or earlier at the discretion of the Regional Water Boards, it is the intent of the State Water Board that Regional Water Boards will use this General Order for permitting the disposal of disaster-related wastes.

8. This General Order applies to emergency situations for disposal of disaster-related wastes from disaster areas where a state of emergency has been proclaimed by the Governor pursuant to the Government Code, section 8550 et seq., and is categorically exempt from California Environmental Quality Act (CEQA) (California Code of Regulations [CCR], title 14, section 15269(a) and Public Resources Code [PRC], section 21080, subdivision [b][3])). For emergencies that are not in a Governor-declared disaster area, this General Order is exempt from CEQA because the Order and the conditions of this Order will apply only to activities necessary to prevent or mitigate an emergency, as defined by CEQA (CCR, title 14, section 15269, subdivision [c], and PRC, section 21080, subdivision [b][4]).

9. CEQA defines emergency as "a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. 'Emergency' includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage" (PRC, section 21060, subdivision 3). Specific actions necessary to prevent or mitigate an emergency are exempt from CEQA. Emergency activities do not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term (CCR, title 14, section 15259, subdivision [c]). For purposes of this General Order, "emergency" has the same meaning as defined in CEQA.

10. Water Code, section 13260, subdivision (a) requires a report of waste discharge (ROWD) from any person or agency proposing to discharge waste. The legal requirement for dischargers discharging as a result of cleanup of an emergency or disaster area is to submit a ROWD and for the Regional Water Board to prescribe

WDRs for discharges of wastes necessary to protect life or property during emergency cleanup actions following disasters such as fires, floods, storms, earthquakes, or mass mortality of animals in a Declared Disaster Area. A discharger submitting a Notice of Intent to enroll and comply with the conditions in this General Order satisfies this requirement.

11. Water Code, section 13264, subdivision (a) prohibits waste discharge without the discharger submitting a ROWD and the Water Board adoption of WDRs. A General Order for cleanup of wastes following fires, floods, storms, earthquakes, or mass mortality of animals when a state of emergency has been proclaimed by the Governor is critical. The formal process of dischargers preparing a ROWD and the Regional Water Board adopting WDRs is a several-month long process that would unduly delay cleanup after these types of emergencies.

12. The State Water Board notified the landfill operators and owners identified in Attachment B, as well as governmental agencies and interested persons of its intent to adopt a General Order and provided them the opportunity to attend a public meeting and submit their written comments and recommendations.

13. This General Order does not supersede any federal, state, or local law or regulation. The State Water Board, in a public meeting, heard and considered all comments pertaining to this matter.

## ANTIDEGRADATION ANALYSIS

14. State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality Waters in California, the state's "Antidegradation Policy") provides that high quality waters of the state must be maintained unless it is demonstrated that any degradation will be consistent with the maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality worse than that described in the Regional Water Board's policies. This General Order is consistent with the Antidegradation Policy because it includes conditions that require dischargers to minimize or eliminate discharges of wastes that can have adverse impacts on the water quality that supports beneficial uses of waters of the state. This General Order imposes conditions on discharges of disaster-related wastes that would not otherwise apply following the appropriate notification to the Regional Water Board. All temporary discharges regulated under this General Order are short-term and are not expected to cause degradation of water quality. Permanent disposal is only authorized to lined waste management units operating pursuant to CCR, title 27. Therefore, no degradation of water quality is authorized under this General Order. Coverage under this General Order can be terminated if conditions are not met.

## OTHER REGULATORY CONSIDERATIONS

15. This General Order is in the public interest because these discharges would comply with the conditions of this General Order and would not result in violation of a Regional Water Board's Basin Plan.

16. Except as provided under Water Code section 13269, subdivision (d), and upon notification of the State Water Board, Water Code section 13269, subdivision (c) provides that neither submittal of a ROWD, nor the adoption of WDRs is required for discharges resulting from certain emergency activities. The emergency activities described in Water Code section 13269, subdivision (c) are:

    a. Immediate emergency work necessary to protect life or property or immediate emergency repairs to public service facilities necessary to maintain service as a result of a disaster in a disaster-stricken area in which a State of Emergency has been proclaimed by the Governor pursuant to the Government Code, section 8550 et seq.; and

    b. Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in the Vehicle Code, section 360, except for a highway designated as an official state scenic highway pursuant to the Vehicle Code, section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.

    The activities covered by this General Order are outside the scope of Water Code, section 13269, subdivision (c) as this General Order provides requirements for disposal of disaster-related debris, which occurs following the immediate response actions described in Water Code, section 13269, subdivision (c). Additionally, section 13269, subdivision (d) provides that section 13269, subdivision (c) is not a limitation on Water Board authority to determine that a waiver of the requirement to submit a ROWD and obtain WDRs shall not be granted.

17. Pursuant to Water Code section 13260 subdivision (c), Dischargers must submit a ROWD when there is a material change in discharge or new discharge. Landfill owners and/or operators proposing to accept the material included in this General Order for permanent disposal would constitute a material change in discharge. Temporary staging areas are considered new discharges. Therefore, submitting a Notice of Intent to enroll in this General Order is needed to satisfy the requirements of Water Code, section 13260. Landfills and other areas used for permanent disposal are required to submit a ROWD following submittal of the Notice of Intent to the Regional Water Board in accordance with the requirements of this General Order.

18. Pursuant to Water Code section 13263, subdivision (g), waste discharges to waters of the state are a privilege, not a right, and adoption of this General Order does not create a vested right to continue any discharge.

19. Water Code section 13267, subdivision (b), provides that "in conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposed to discharge within its region, or any citizen or domiciliary, or political agency or entity of this state who had discharged, discharges, or is suspected of having discharged or discharging, or who proposed to discharge waste outside of its region that could affect the quality of the waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports." The technical reports required by this General Order are necessary to assure compliance with its conditions.

20. All WDRs must implement the applicable Regional Water Board's Basin Plan for the region in which the discharge occurs; therefore, this General Order requires dischargers to comply with all applicable Basin Plan requirements and water quality objectives governing the discharge. In the event of a conflict between the requirements of this General Order and the Basin Plan, the more stringent requirement prevails.

21. Regulated landfills have WDRs implementing CCR, title 27; State Water Board Resolution No. 93-62; and federal Municipal Solid Waste Landfill Criteria in 40 CFR 258.

22. This General Order is not a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to the Federal Clean Water Act. For operations where storm water discharges off-site, the Discharger may be required to enroll under the State Water Board's Order 2014-0057-DWQ, NPDES General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (Industrial General Permit), and/or future promulgations. If wastewater is discharged to surface water, the Discharger may be required to obtain an individual NPDES permit. Coverage under this General Order does not exempt a facility from the federal Clean Water Act. Any facility required to obtain such permits must notify the Regional Water Board.

23. The issuance of this General Order is consistent with the goal to protect waters of the state, while considering economic and environmental impacts as stated in the Strategic Plan of the Water Boards and Water Code section 13263, subdivision (a).

24. Pursuant to Water Code, section 106.3, the state statutorily recognizes that "every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes." The human right to water extends to all Californians, including disadvantaged individuals and groups and

communities in rural and urban areas. This General Order protects the human right to water by providing a mechanism to quickly remove disaster-related wastes from public areas and to lined containment systems, therefore protecting water quality.

25. Failure to prevent conditions that create or threaten to create pollution or nuisance or that may unreasonably degrade waters of the state will be sufficient reason to modify, revoke, or enforce this General Order.

26. Pursuant to Water Code, sections 13241, the State Water Board, in establishing the requirements contained herein, considered factors including, but not limited to, the following:

    a. Past, present, and probable future beneficial uses of water:

    The proposed discharge will not adversely affect present or probably future beneficial uses of water because the permanent discharge is only authorized to lined waste containment systems with detection monitoring to ensure discharges do not reach groundwater and temporary waste management units that are required to be clean-closed immediately following the use as a staging area.

    b. Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto:

    The WDRs for the permanent discharge locations consider the environmental characteristics and quality of water available at those locations for permanent disposal. Given the emergency-response nature of this General Order, it is not feasible to consider the environmental characteristics and hydrographic units for every potential scenario for temporary disposal conditions; however, this General Order includes requirements for considering environmental characteristics when establishing temporary discharge locations.

    c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area:

    The requirements of this General Order will not affect groundwater quality. The Water Board will use its existing authority and these WDRs to ensure protection of water quality from these discharges.

    d. Economic considerations:

    The requirements in this General Order do not subject the Dischargers to economic disadvantage compared to other similar discharges.

    e. The need for developing housing within the region(s):

    The Dischargers are not responsible for developing housing as a result of this General Order.

    f. The need to develop and use recycled water:

The Dischargers may propose the use of recycled water for dust control when performing activities related to this General Order when available.

27. Class II and III landfills are not authorized to accept radioactive waste. If an emergency occurs as a result of a radioactive event, thereby creating mass quantities of radioactive waste, those wastes are not considered to be disaster-related wastes for the purposes of this General Order. Such radioactive wastes must be disposed in a waste management unit designed and operated to contain radioactive wastes.

**IT IS HEREBY ORDERED,** pursuant to Water Code, sections 13263 and 13267, the Discharger, its agents, successors, and assigns, in order to meet the provisions contained in division 7 of the Water Code and regulations adopted hereunder, shall comply with the following:

## A. PROHIBITIONS

1. Discharge of wastes, directly or indirectly, to any surface waters of the state, including ephemeral streams and vernal pools, is prohibited.
2. Discharge of wastes to surface waters including overflow, wastewater, or bypass from transport, treatment, storage, or disposal systems to adjacent drainages or adjacent properties is prohibited, except as authorized by an NPDES permit.
3. Disaster-related waste management operations that create, or contribute to, a condition of pollution or nuisance are prohibited.
4. Disaster-related waste management operations that create, or contribute to, conditions that violate applicable Basin Plan waste discharge prohibitions are prohibited.
5. Any material classified as a designated waste cannot be used for daily cover pursuant to CCR, title 27, section 20705, subdivision (e)(1).
6. Disaster-related wastes managed in a manner that causes corrosion, decay, or otherwise reduces or impairs the integrity of containment structures at any waste management unit, pursuant to CCR title 27, section 20200, subdivision(b)(1) are prohibited.
7. Disaster-related wastes managed in a manner that mixes or commingles with other wastes that can produce a violent reaction (including heat, pressure, fire or explosion), that can produce toxic byproducts, or that can produce any reaction products requiring a higher level of containment, or results in the mixture being classified as a restricted waste, pursuant to CCR, title 27, section 20200, subdivision (b)(2), are prohibited.
8. Wastes such as paint cans, gas cans, solvents, poisons, household cleaners, drums with unknown contents, electronic wastes, refrigerators, or any potentially hazardous wastes (other than ash from fire disaster areas) are prohibited from being discharged at a Class II or III landfill and must be removed from the disaster-related waste stream and managed in accordance with the applicable regulatory requirements

9. Temporary staging areas shall not be located in areas underlain by fractured bedrock aquifer or highly permeable soils (e.g., gravels, sands, and loamy sands) or in facilities that are characterized by such deposits (e.g., gravel quarry).

10. Wastes derived from a radioactive event is classified as radioactive waste, not disaster-related waste, and are prohibited from being disposed in landfills pursuant to this General Order. This prohibition does not apply to disaster-related wastes that may contain an incidental amount of radioactivity that would occur within the waste stream from other disasters (such as medical devices burned in a fire).

## B. CONDITIONS

1. This General Order applies only to disaster-related waste streams (1) from Declared Disaster Areas, or (2) from other emergency response actions that are exempt from CEQA, and (3) that are discharged to facilities that submit a Notice of Intent.

2. All conditions of this General Order remain applicable until they are satisfied, and the Discharger submits a complete Notice of Termination, or the discharge becomes covered under WDRs issued by the Regional Water Board. Authorization to discharge under this General Order is temporary and shall expire under the following conditions, whichever is earliest, unless otherwise provided in writing by the Water Board:

    a. If applicable, the Governor or the Legislature terminates the state of emergency pursuant to Government Code section 8629; or

    b. The Water Board terminates enrollment of individual Dischargers/Units, or all Dischargers/Units temporarily enrolled under the General Order for a particular emergency, or terminates this General Order in its entirety ("Units" in this context refers to any regulated landfill, temporary waste pile, temporary surface impoundment, or mass mortality emergency landfill being covered under this General Order).

3. Wastes discharged to temporary waste management units under this General Order (whether located at a regulated disposal facility or not), together with any materials used to contain the temporary waste piles, must be removed from the temporary storage/staging location and restored to its original state within six months of a declaration of emergency by the Governor or prior to filing a Notice of Termination, whichever occurs first, or as a required by the Regional Water Board. Any person permanently discharging or storing disaster-related waste longer than noted above must file a Report of Waste Discharge and obtain waste discharge requirements.

## C. SPECIFICATIONS FOR ALL DISCHARGES OF DISASTER-RELATED WASTES

1. Cleanup activities and management of disaster-related wastes must minimize or eliminate the discharge of any wastes that could adversely affect the quality or beneficial uses of the waters of the state.

2. Landfill(s) designated to receive disaster-related wastes must dispose of the disaster-related waste within waste management units underlain by composite liner systems.
3. Disaster-related wastes derived from cleanup of disaster-impacted areas and discharged into regulated waste disposal facilities must be isolated, to the extent practicable, from areas of the facility that are not lined.
4. Inert wastes derived from cleanup of disaster-impacted areas shall be separated and recycled when appropriate and practicable. Inert wastes that are suitable for reuse or recycling do not require permanent disposal at a classified waste management or disposal facility (i.e., permitted landfill). If not disposed, these materials do not need coverage under this General Order.
5. Composite liner systems identified for permanent disposal of disaster-related waste must meet the liner requirements for discharges of municipal solid waste (MSW), pursuant to State Water Resources Control Board (State Water Board) Resolution No. 93-62, or engineered alternatives to those prescriptive standards, must satisfy minimum containment standards for Class III MSW landfills promulgated in State Water Resources Control Board regulations governing discharges of designated waste, pursuant to CCR, title 27, sections 20260 and 20310.
6. Disposal of disaster-related wastes, to the extent practical, must not impede movement of leachate into a leachate collection and removal system (LCRS).
7. Food wastes, animal carcasses, and other putrescible wastes derived from cleanup of disaster-impacted areas must be discharged for disposal in compliance with conditions of this General Order and covered expeditiously.
8. All disaster-related wastes must be protected from flooding and inundation, in compliance with the current WDRs for the affected unit or units, at the regulated waste disposal facility.
9. The waste streams to be discharged for treatment or permanent disposal shall only be disposed into:
    a. Liquid waste management or treatment units as allowed by waste discharge requirements issued by the Regional Water Board, or
    b. Solid waste management units or disposal facilities (e.g., Class II or III MSW landfills) underlain with engineered composite liners and leachate collection systems that satisfy the requirements of State Water Board Resolution No. 93-62 and that have WDRs for the active disposal operations; or
    c. Temporary staging areas established in accordance with the conditions of this General Order; or
    d. Other categories of waste management units regulated under WDRs issued by the Regional Water Board that allow that type of waste.

10. All disaster-related wastes must be setback at least 100 feet from any surface water or well. A lesser setback distance may be allowed by the Regional Water Board if the Discharger can demonstrate that the groundwater, geologic, topographic, and well construction conditions at the site are adequate to protect water quality.

11. Precipitation that falls on, or water that is applied to waste piles, must be treated as leachate if runoff occurs.

12. When applicable, Dischargers with coverage under this General Order must also apply for coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction Storm Water Permit) and comply with its requirements. The Construction Storm Water Permit (State Board Order No. 2009-0009- DWQ) may be found on the Water Board's website.

    Visit the Water Boards website for the Construction Storm Water Permit

## D. CONDITIONS FOR DISCHARGE OF DISASTER-RELATED WASTES AT REGULATED CLASS II OR III MSW WASTE DISPOSAL FACILITIES

1. Owners/operators of regulated waste management or disposal facilities proposing to discharge waste from disaster-impacted areas to the regulated waste disposal facility and for which such discharge would or could otherwise cause a violation of the WDRs for the facility, shall submit a Notice of Intent to the appropriate Regional Water Board within 30 days after the initial discharge of any disaster-related emergency wastes. The Notice of Intent must contain the information listed in Attachment C of this General Order.

2. Emergency wastes (not otherwise suitable for recycling or reuse) derived from cleanup of emergency/disaster-impacted areas and managed under provisions of this General Order must only be discharged for permanent disposal into units that are underlain with an engineered composite liner system and a leachate collection system meeting the requirements of CCR, title 27, and State Water Board Resolution No. 93-62.

3. Within 30 days after the completion of discharges for each emergency, the owner/operator of a regulated waste disposal facility that accepted waste from disaster-impacted areas must submit an amendment to their ROWD (amendment to the facility's Joint Technical Document) describing the material change to their discharge pertaining to the temporary acceptance, management, and disposal of the waste. The amended ROWD must include a completed Notice of Termination form and information about the waste types accepted, location of the discharge including a map, and approximate volumes discharged.

4. The following categories of disaster-related wastes derived from burned areas may be discharged as alternative daily cover (ADC) to a Class III MSW landfill:

    a. Solid wastes that are classified as inert wastes (per CCR, title 27, section 20230);

b. Solid wastes that meet the criteria for ADC (per CCR, title 27, section 20690 et seq.); and

c. Solid wastes identified by the Local Enforcement Agency (LEA) and approved by local Regional Board staff as being suitable use for ADC.

## E. CONDITIONS FOR DISCHARGE OF DISASTER-RELATED WASTES AT TEMPORARY WASTE STAGING AREAS (WASTE PILES) LOCATED AT REGULATED DISPOSAL FACILITIES

1. Owners/operators of regulated waste management or disposal facilities proposing to accept discharges of waste from disaster-impacted areas to a temporary waste staging area located at a regulated waste disposal facility must submit a Notice of Intent to their local Regional Water Board within 30 days after the initial discharge of any disaster-related wastes. The Notice of Intent must contain the information listed in Attachment C of this General Order.
2. Temporary waste staging areas may only be located within MSW landfills, inert landfills, or other designated areas where disaster-related wastes are temporarily discharged, stored, treated, or sorted for recycling, and where containment features and ancillary features for precipitation and drainage controls are present. Temporary waste staging areas are also considered temporary waste management units.
3. Heavy gauge plastic sheeting (not less than 20 mils thick) or other impermeable materials (e.g., asphalt, concrete, compacted Class II road base, etc.) must be installed prior to establishing a temporary waste pile to protect natural geological materials from contact with the waste or its leachate.
4. Owners/operators of regulated waste management or disposal facilities must prevent surface runoff/run-on from contacting wastes derived from cleanup of disaster-impacted areas and must prevent erosion and transport of soils containing disaster-related wastes or waste constituents by surface runoff from all temporary emergency waste piles. The facility owner/operator must implement best management practices (BMPs) for storm water conveyance and control.
5. Hazardous wastes must not be discharged to temporary waste piles.

## F. CONDITIONS FOR DISCHARGE OF DISASTER-RELATED WASTES AT TEMPORARY WASTE STORAGE AREAS (WASTE PILES) NOT LOCATED AT REGULATED WASTE DISPOSAL FACILITIES

1. Owners/Operators proposing to establish a temporary waste pile not located at a regulated waste disposal facility must submit a Notice of Intent to the Regional Water Board within 30 days of initial discharge. The Notice of Intent must contain the information listed in Attachment C of this General Order.

2. Owners/operators of temporary waste piles not at regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance with the following minimum standards:

a. The bottom of a temporary waste pile must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from any surface water or well.

b. Temporary waste piles must be protected from inundation or washout.

c. Temporary waste piles must not be located on a known Holocene fault; waste piles must not be located at areas of potential rapid geologic change (e.g., landslides, debris flows, flash flood areas, etc.).

d. Temporary waste piles must, to the extent feasible, prevent rainwater infiltration and runoff and control fugitive dust, vectors, odors, blowing litter, and scavenging. Any cover material used must not consist of or contain material known or anticipated to be classified as a designated or hazardous waste.

e. Temporary waste management operations that include wastes with a liquid content exceeding its moisture-holding capacity and/or containing free liquids must comply with requirements for temporary surface impoundments in accordance with the specific conditions in Section G of this General Order, below.

f. Temporary waste piles must be designed, constructed and operated to limit ponding, infiltration, inundation, erosion, slope failure, and washout to the greatest extent possible. Surface drainage from outside of the temporary waste pile must be diverted from the location of the temporary waste pile through implementation of BMPs for storm water control and conveyance.

3. Owners/operators of temporary waste piles not on regulated facilities must discharge any return water or ponded water contained within the temporary waste pile to a sanitary sewer system, a regulated facility permitted to receive the wastewater, or a temporary surface impoundment.

4. Owners/operators of temporary waste piles not on regulated facilities must post at least one clearly visible sign listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The sign or signs must be in English and any other language common in the local community to more effectively communicate the minimum contact information. The sign(s) must be maintained in a legible condition so long as waste piles remain on site.

5. Liquid hazardous wastes must not be discharged to temporary waste piles.

## G. CONDITIONS FOR DISCHARGE OF DISASTER-RELATED WASTES AT TEMPORARY SURFACE IMPOUNDMENTS NOT LOCATED ON REGULATED FACILITIES

1. Owners/Operators proposing to establish a temporary surface impoundment not located at a regulated waste disposal facility must submit a Notice of Intent to the Regional Water Board within 30 days after the initial discharge of any disaster related wastes from a Declared Disaster Area. The Notice of Intent must contain the information listed in Attachment C of this General Order.

2. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that they are sited, designed, constructed, operated, and maintained to ensure compliance with the following minimum standards:

   a. The bottom of a temporary surface impoundment must be placed at least 5 feet above the highest historically known or anticipated level of groundwater, and more than 100 feet from any surface water or well.

   b. Temporary surface impoundments must be protected from inundation or washout.

   c. Temporary surface impoundments must not be located on a known Holocene fault.

   d. Temporary surface impoundments must not be located at areas of potential rapid geologic change (e.g., landslides, debris flows, flashflood areas, etc.).

   e. Temporary surface impoundments must be underlain by a temporary impermeable barrier (e.g., heavy gauge plastic with water-tight seams) or a relatively impermeable surface (e.g., competent asphalt, concrete, etc.). The liner must be installed prior to establishing a temporary surface impoundment and must protect natural geological materials from contact with the waste. If emergency conditions prevent the use of a low permeable barrier and/or based on the emergency waste characterization risk, adequate site restoration to original conditions may require more substantial groundwater or soil investigations and site cleanup as required by the Executive Officer.

   f. Berms and containment structures of temporary surface impoundments must be constructed of materials that minimize leakage of the wastewater and must be composed of inert materials that will not cause adverse reactions (e.g., corrosion, decay, or otherwise reduce or impair the integrity of the containment structure) when placed in contact with the liquid wastes stored within the temporary surface impoundment.

   g. Temporary surface impoundments must be designed, operated and maintained to ensure that liquid wastes are at least two feet below the top of the impoundment (measured vertically from the surface of the liquid up to the point on the surrounding lined berm or dike having the lowest elevation), and must be designed and constructed to prevent overtopping as a result of wind conditions.

h. Direct pipeline discharges of liquid can only occur into temporary surface impoundments with automatic or manually operated fail-safe systems to prevent overfilling.

i. Temporary surface impoundments must be designed and constructed to prevent scouring of containment structures at the points of liquid discharge into the impoundments.

j. Temporary surface impoundments must be designed, constructed and operated to limit inundation, erosion, slope failure, and washout to the greatest extent possible. Surface drainage from outside of the temporary surface impoundments must be diverted from the location of the temporary surface impoundment through implementation of BMPs for storm water control and conveyance.

3. When applicable, owners/operators of temporary surface impoundments not located at a regulated waste disposal facility must obtain coverage under the Construction Storm Water Permit and prepare a Storm Water Pollution Prevention Plan to obtain coverage under this General Order.

4. Owners/operators of temporary surface impoundments not on regulated facilities must ensure that only disaster-related waste streams are discharged into temporary surface impoundments.

5. All visible portions of synthetic liner systems in temporary surface impoundments must be inspected weekly, or daily as necessary, until all free liquid is removed from the surface impoundment as part of closure. If, during the active life of the temporary surface impoundment, the wastes are removed and the bottom of the impoundment is cleaned down to the liner, an inspection must be made of the bottom of the liner prior to refilling the impoundment.

6. Owners/operators of temporary surface impoundments not on regulated facilities must post at least one clearly visible sign listing the following minimum information: a) project name, b) brief project description, and c) operator name and phone number. The sign or signs must be in English and any other language common in the local community to more effectively communicate the minimum contact information. The sign(s) must be maintained in a legible condition while temporary surface impoundments remain on site.

## H. SPECIFICATIONS SPECIFIC TO DISCHARGES OF MASS ANIMAL MORTALITY WASTES

1. Disposal of large numbers of animal carcasses, and other high moisture waste streams from mass mortality, may cause wastes to exceed moisture-holding capacity at regulated MSW landfills. To limit the impacts from a large moisture content waste load, the owner/operator responsible for the regulated waste disposal facility shall implement the following procedures:

2. Discharge high-moisture wastes for mass animal mortality wastes only at landfill areas underlain by a composite liner system and a significant thickness of other types of solid wastes.
3. Cover each layer of high-moisture mass animal mortality wastes (e.g., animal carcasses, animal related wastes, etc.) with absorbent wastes or soil.
4. The thickness of each layer of mass mortality wastes shall be limited to less than two feet, or the thickness of one animal carcass if greater than two feet.
5. For disaster-related mass animal mortality wastes streams that are in a liquid form (e.g. raw eggs, etc.), the moisture content shall be reduced prior to discharge by mixing with an absorbent material (e.g., saw dust, mulch, soil, etc.).
6. The owner/operator must implement a plan to prevent wild animals (e.g., birds, mammals, reptiles, etc.) from coming into contact with mass animal mortality wastes (e.g., provide and maintain adequate cover for temporary waste piles).
7. The owner/operator must ensure that all temporary waste piles containing mass animal mortality wastes are discharged into the landfill prior to the end of the working day, unless sufficient information is provided to demonstrate that a proposed alternative is protective of water quality and human health for a given temporary waste pile.

## I. SPECIFIC CONDITIONS FOR DISCHARGES FROM OTHER EMERGENCY DISASTER AREAS

1. In the event of an emergency not within a disaster area declared by the Governor, this General Order may be used for waste discharges necessary to mitigate an emergency under either of the following conditions:
    a. The Discharger submits a Notice of Intent to the Regional Water Board before commencing discharges pursuant to this General Order. Discharge of wastes in a manner requiring coverage under this General Order must not occur until the Executive Officer provides the Discharger a written Notice of Applicability stating that the proposed discharge is eligible and approved for coverage under this General Order.
    b. An emergency is declared by a state or local government agency and an Incident Commander working through the Statewide Incident Management System and the California Governor's Office of Emergency Services directs that waste be discharged to mitigate the emergency.
2. A Discharger who seeks coverage under Section I.I.1.a must submit a ROWD before commencing the proposed discharges if the Executive Officer determines that a proposed discharge is not eligible for coverage under this General Order.
3. A Discharger who seeks coverage under Section I.I.1.b must notify the Regional Water Board by e-mail or telephone (or voicemail if after business hours) of the location, type of discharge, and contact information before commencing the discharge. The

Discharger must also submit a Notice of Intent to the appropriate Regional Water Board within 10 days after commencing the discharge, along with documentation that the Discharger has met the conditions described in Section D.1.b.

4. The Discharger must comply with Sections A, B, and C of this General Order and the appropriate Sections D through H of this General Order that are applicable to the particular discharge.

## J. ENROLLMENT PROCESS

### NOTICE OF INTENT

1. **Emergency Wastes From A Declared Disaster Area** – Dischargers seeking coverage under this General Order must submit a fully executed Notice of Intent (NOI) (Attachment C) to the Regional Board, indicating the discharge meets the conditions of this General Order. The NOI must be completed with all required information and signed by the owner or authorized representative of the entity proposing to discharge emergency wastes.

2. **Emergency Wastes <u>Not</u> From A Declared Disaster Area** – Dischargers desiring coverage under this General Order for emergencies not in a Declared Disaster Area (i.e., declared by the Governor) must either:

   a. Submit a Notice of Intent to the appropriate Regional Water Board and obtain a Notice of Applicability from the Executive Officer prior to commencing the discharge pursuant to Section I.1.a of this General Order, or

   b. Notify the Regional Water Board by e-mail, telephone (or voicemail if after business hours) of the location, type of discharge, and contact information before commencing the discharge and submit a Notice of Intent to the appropriate Regional Water Board within 10 days after commencing the discharge. In this instance, the Notice of Intent must include documentation that the Discharger has met the conditions described in Section I.1.b regarding the emergency being declared by a state or local government agency and an Incident Commander working through the Statewide Incident Management System and the California Governor's Office of Emergency Services directs that waste be discharged to mitigate the emergency.

## NOTICE OF TERMINATION

To terminate coverage, Dischargers must submit a fully executed Notice of Termination (NOT) (Attachment D) to the Regional Board certifying they have satisfied the conditions of this General Order. The NOT must be submitted within 10 working days of completing removal of all disaster-related wastes and restoring the site to its original condition.

## CERTIFICATION

The undersigned, Clerk to the Board, does herby certify that the foregoing is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on _____.

_____
Jeanine Townsend
Clerk to the Board

## ATTACHMENT A - DEFINITIONS

**Beneficial Uses** – Pursuant to division 7, section 13050, subdivision (f) of the Water Code. "Beneficial uses" of water of the state that may be protected against degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

**Best Management Practice** - A practice, or combination of practices, that is the most effective and feasible means of controlling degradation or pollution generated by nonpoint sources for the attainment of water quality objectives.

**California Environmental Quality Act (CEQA)** - Refers to the statute promulgated in Public Resources Code, beginning with section 21000, and regulations promulgated in California Code of Regulations, title 14, chapter 3, beginning with section 15000, requiring state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

**Class I, II, III** – Refers to categories of waste management units regulated pursuant to California Code of Regulations, title 27, for discharges of waste to land.

**Day** - A calendar day unless otherwise specified.

**Detention Pond** - An excavated or diked area designed to capture and hold any wastewater.

**Discharge** - The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of wastes into or on any land or water.

**Discharger** - Any person who discharges waste which could affect the quality of waters of the state.

**Geocomposite Liner** - A manufactured material using geotextiles, geogrids, geonets, and/or geomembranes in laminated or composite form.

**Geomembrane** - Flexible materials in planar form manufactured to meet specific engineering purposes. Commonly, they are used as a barrier to waste solids and fluids. The term "geomembrane" is synonymous with "synthetic liner" and "flexible membrane liner."

**Groundwater** - Water below the ground surface that is at or above atmospheric pressure (i.e., perched, unconfined, or confined water).

**Leachate** - Any liquid formed by the drainage of liquids from, or percolation/flow of liquids through any waste.

**Liquid Wastes** - Waste materials which are not spadeable or in a physical state where the waste materials behave sufficiently like a solid to be moved by a spade at normal outdoor temperatures.

**Liner** - A material or combination of materials designed, constructed, and maintained to contain any waste.

**National Pollutant Discharge Elimination System (NPDES)** - Refers to the national program under Clean Water Act section 402 (33 U.S.C. § 1342), for regulation of discharges of pollutants from point sources to waters of the United States. Discharges to surface waters are illegal unless authorized by a National Pollutant Discharge Elimination System permit.

**Nonhazardous Solid Waste** - Means all putrescible and non-putrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes and other discarded waste (whether of solid or semi-solid consistency); provided that such wastes do not contain wastes which must be managed as hazardous wastes, or wastes which contain soluble pollutants in concentrations which exceed applicable water quality objectives, or could cause degradation of waters of the state (i.e., designated waste).

**Pollution** - Defined in section 13050, subdivision (l) of the Water Code.

**Precipitation** - Is any condensate of atmospheric water vapor and includes hail, mist, rain, sleet, or snow.

**Regional Water Quality Control Board (Regional Water Board)** - All references to a Regional Water Board, include the Executive Officer, who may act for the Regional Water Board in carrying out this General Order. (Wat. Code, § 13050, subd. (b) & § 13223.)

**Residual** - The waste destined for disposal or recycling, and removed from the site.

**Runoff** - Any precipitation, wastewater, or other liquids that drain from any part of a waste management unit.

**Run-on** - Any precipitation, wastewater, or other liquids that drain onto any part of a waste management unit.

**Water Quality Control Plan (Basin Plan)** - Defined in division 7, section 13050, subdivision (j) of the Water Code.

**Wastewater** - Refers to leachate or any other liquid flowing from, or on a waste management unit.

**Water Boards** - Refers collectively to the State Water Resources Control Board and the nine Regional Water Quality Control Boards.

**Waste** - Defined in Water Code section 13050, subdivision (d).

**Water Quality Objectives** - Defined in Water Code section 13050, subdivision (h).

**Waters of the State** - Defined in Water Code section 13050, subdivision (e).

## ATTACHMENT B – Landfills that can Accept Disaster-Related Waste

**Region 1**

| Landfill | County | Discharger(s) |
|---|---|---|
| Central Landfill | Sonoma | Republic Services |

**Region 2**

| Landfill | County | Discharger(s) |
|---|---|---|
| Potrero Hills Landfill | Solano | Potrero Hills Landfill, Inc. |
| Redwood Landfill | Marin | Waste Management, Inc. |
| Clover Flat Landfill | Napa | Clover Flat Disposal Services, Inc. |
| Keller Canyon Landfill | Contra Costa | Allied Waste Industries |
| Vasco Road Landfill | Alameda | BFI Waste Systems |
| Newby Island Landfill | Santa Clara | Allied Waste Industries |
| Kirby Canyon Landfill | Santa Clara | Waste Management, Inc. |
| Guadalupe Landfill | Santa Clara | Waste Management, Inc |
| Ox Mountain Landfill | San Mateo | Republic Services, Inc. |

**Region 3**

| Landfill | County | Discharger(s) |
|---|---|---|
| Tajiguas Class III Landfill | Santa Barbara | County of Santa Barbara |
| Santa Maria Regional Landfill | Santa Barbara | City of Santa Maria |
| Santa Maria Integrated Waste Management, Los Flores Class III Landfill | Santa Barbara | City of Santa Maria |
| Cold Canyon Class III Landfill | San Luis Obispo | Waste Connections, Inc. |
| Chicago Grade Class III Landfill | San Luis Obispo | Chicago Grade Landfill and Recycling, LLC |
| Paso Robles Class III Landfill | San Luis Obispo | City of Paso Robles |
| Camp Roberts Class III Landfill | San Luis Obispo | California Army National Guard |
| Johnson Canyon Road Class III Landfill | Monterey | Salinas Valley Solid Waste Authority |
| Monterey Peninsula Class III Landfill | Monterey | Monterey Regional Waste Management District |
| Buena Vista Class III Landfill | Santa Cruz | County of Santa Cruz |
| City of Watsonville Class III Landfill | Santa Cruz | City of Watsonville |
| Santa Cruz Resource Recovery Facility | Santa Cruz | City of Santa Cruz |
| John Smith Road Class III Landfill | San Benito | County of San Benito Integrated Waste Management Department |

**Region 4**

| Landfill | County | Discharger(s) |
|---|---|---|
| Calabasas Landfill | Los Angeles | County Sanitation Districts of Los Angeles County |
| Chiquita Canyon Landfill | Los Angeles | Chiquita Canyon, LLC |
| Savage Canyon Landfill | Los Angeles | City of Whittier |
| Simi Valley Landfill | Ventura | Waste Management of CA, Inc. |
| Burbank Landfill | Los Angeles | City of Burbank |
| Sunshine Canyon Landfill | Los Angeles | Republic Services, Inc. |
| Toland Road Landfill | Ventura | Ventura Regional Sanitation District |

**Region 5**

| Landfill | County | Discharger(s) |
|---|---|---|
| Altamont Sanitary Landfill | Alameda | Waste Management of Alameda County |
| Neal Road Landfill | Butte | Butte County Public Works, Waste Management Division |
| Rock Creek Landfill | Calaveras | Calaveras County |
| American Avenue Landfill | Fresno | County of Fresno |
| Bakersfield Metro Landfill | Kern | County of Kern |
| Clean Harbors Buttonwillow Facility | Kern | Clean Harbors Buttonwillow Inc. |
| Shafter-Wasco Landfill | Kern | County of Kern |
| Taft Sanitary Landfill | Kern | County of Kern |
| Waste Management McKittrick Facility | Kern | Waste Management |
| Avenal Landfill | Kings | City of Avenal |
| Chem Waste Management – Kettleman | Kings | Chemical Waste Management |
| East Lake Landfill | Lake | Lake County Public Works Services Department |
| Fairmead Landfill | Madera | County of Madera |
| Billy Wright Landfill | Merced | County of Merced |
| Highway 59 Landfill | Merced | County of Merced |
| Western Regional Landfill | Placer | Western Placer Waste Management Authority |
| Kiefer Landfill | Sacramento | County of Sacramento, Department of Waste Management and Recycling |
| Foothill Sanitary Landfill | San Joaquin | San Joaquin County Department of Public Works |
| Forward, Inc | San Joaquin | Republic Services |
| North County Landfill | San Joaquin | San Joaquin County Department of Public Works |
| Anderson Solid Waste Inc. | Shasta | Anderson Landfill Inc. |
| West Central Landfill | Shasta | Shasta County Department of Public Works |
| Hay Road Landfill | Solano | Recology Hay Road |

| Landfill | County | Discharger(s) |
|---|---|---|
| Fink Road Landfill (LF-2) | Stanislaus | Stanislaus County Department of Environmental Resources |
| Fink Road Landfill (LF-3) | Stanislaus | Stanislaus County Department of Environmental Resources |
| Red Bluff Landfill | Tehama | Waste Connections, Inc. |
| Visalia Landfill | Tulare | Tulare County Solid Waste Management |
| Central Landfill | Yolo | Yolo County Integrated Waste Management Division |
| Ostrom Road Landfill | Yuba | Recology Ostrom Road |

**Region 6**

| Landfill | County | Discharger(s) |
|---|---|---|
| Antelope Valley Public Landfill | Los Angeles | Waste Management of CA, Inc. |
| Lancaster Landfill | Los Angeles | Waste Management of CA, Inc. |
| Barstow Landfill | San Bernardino | San Bernardino County Department of Public Works, Solid Waste Management Division |
| Fort Irwin Landfill | San Bernardino | U.S. Army -Training Center |
| Victorville Landfill | San Bernardino | San Bernardino County Department of Public Works, Solid Waste Management Division |

**Region 7**

| Landfill | County | Discharger(s) |
|---|---|---|
| Allied Imperial Landfill | Imperial | Imperial Landfill, Inc. |
| Landers Landfill | San Bernardino | County of San Bernardino, Solid Waste Management Division |

**Region 8**

| Landfill | County | Discharger(s) |
|---|---|---|
| Frank R. Bowerman Landfill | Orange | Orange County Waste and Recycling |
| Badlands Landfill | Riverside | Riverside County Department of Waste Resources |
| Lamb Canyon Landfill | Riverside | Riverside County Department of Waste Resources |
| El Sobrante Landfill | Riverside | Waste Management, Inc. |
| Mid-Valley Landfill | San Bernardino | San Bernardino County Department of Public Works, Solid Waste Management Division |
| San Timoteo Landfill | San Bernardino | San Bernardino County Department of Public Works, Solid Waste Management Division |
| California Street Landfill | San Bernardino | City of Redlands |

**Region 9**

| Landfill | County | Discharger(s) |
|---|---|---|
| North Chollas Burnsite | San Diego | City of San Diego, Environmental Protection, Environmental Services |
| Sycamore Landfill | San Diego | Republic Services |
| Prima Deshecha Materials Recovery Facility | Santa Ana | Orange County Waste & Recycling |
| Las Pulgas Landfill | San Diego | US Marine Corps-Camp Pendleton |

## ATTACHMENT C – NOTICE OF INTENT

**State Water Resources Control Board**

**Order No. 20xx-xxxx-xxxx**

TO COMPLY WITH GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISASTER-RELATED WASTES

### I. PROPERTY / FACILITY INFORMATION

| | | | |
|---|---|---|---|
| Property/Facility Name: | | | |
| Property/Facility Contact: | | | |
| Property/Facility Address: | | | |
| City: | County: | State: | Zip: XXXXX |
| Telephone: (XXX) XXX-XXXX | Fax: | Email: | |
| Assessor Parcel Number(s): | | | |

### II. PROPERTY/FACILITY OWNER INFORMATION

| | | | |
|---|---|---|---|
| Property/Facility Owner Name: | | | |
| Owner Mailing Address: | | | |
| City: | County: | State: | Zip: XXXXX |
| Telephone: (XXX) XXX-XXXX | Fax: | Email: | |

### III. PROPERTY/FACILITY OPERATOR INFORMATION

| | | | |
|---|---|---|---|
| Property/Facility Operator Name: | | | |
| Operator Mailing Address: | | | |
| City: | County: | State: | Zip: XXXXX |
| Telephone: (XXX) XXX-XXXX | Fax: | Email: | |
| Assessor Parcel Number(s): | | | |

## IV. DESCRIPTION OF DISCHARGE

*Describe the discharge (i.e., source(s) of discharge, pollutants of concern, period and frequency, etc.). Use additional pages as needed. Provide a map of the property / facility.*

## V. CERTIFICATION

TO COMPLY WITH GENERAL WASTE DISCHARGE REQUIREMENTS FOR DISASTER-RELATED WASTES

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

_____

Signature (Owner or Authorized Representative)

_____

Date

_____ _____

Print Name Title

## ATTACHMENT D – NOTICE OF TERMINATION

TO COMPLY WITH GENERAL WASTE DISCHARGE REQUIREMENTS DISASTER-RELATED WASTES

### I. FINAL WASTE DISPOSAL INFORMATION

| | | | |
|---|---|---|---|
| Final Disposition of Waste: ☐ Off-site/Landfill Disposal ☐ On-site Reuse/Disposal ☐ Off-site Reuse/Disposal ☐ Other: | | | |
| Property Owner/Discharger Name: | | | |
| Property Owner/Discharge Contact and Title: | | | |
| Property Owner/Discharger Mailing Address: | | | |
| City: | County: | State: | Zip: |
| Telephone: | Fax: | Email: | |
| Assessor Parcel Number(s): | | Hydrologic Area/Subarea: | |
| Date(s) Waste Disposed: | | | |
| Quantity of Waste Disposed:<br>(in cubic yards for each disposal date) | | | |
| Disposal Location(s):<br>(for each disposal date) | | | |

## II. FINAL DISPOSAL CERTIFICATION

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

_____ _____

Signature (Owner or Authorized Representative) Date

_____ _____

Print Name Title


# GENERAL WASTE DISCHARGE REQUIREMENTS FOR (begin insert) COMMERCIAL (end insert) COMPOSTING OPERATIONS, STATE WATER RESOURCES CONTROL BOARD ORDER WQ 2020-XXXX-DWQ

(begin insert) DRAFT October 31, 2019 (end insert) (begin delete) ~~August 4, 2015~~ (end delete)

CALIFORNIA
Water Boards

STATE WATER RESOURCES CONTROL BOARD
REGIONAL WATER QUALITY CONTROL BOARDS

ORDER WQ 2020-XXXX-DWQ, GENERAL WASTE DISCHARGE REQUIREMENTS FOR (begin insert) COMMERCIAL (end insert) COMPOSTING OPERATIONS

## Table of Contents

## ACRONYMS AND ABBREVIATIONS

| | |
|---|---|
| Antidegradation Policy | State Water Board Resolution 68-16, Statement of Policy with Respect to Maintaining High Quality of Waters of California |
| Basin Plan | Water Quality Control Plan |
| BMP | Best Management Practices |
| BPTC | Best Practicable Treatment or Control |
| CalOES | California Governor's Office of Emergency Services |
| CalRecycle | California Department of Resources Recycling and Recovery |
| CEQA | California Environmental Quality Act |
| cm/s | Centimeters per second |
| CPLX | Complexity of the Discharge Rating |
| EDF | Electronic Deliverable Format |
| EIR | Environmental Impact Report |
| EQ | Exceptional Quality |
| FEMA | Federal Emergency Management Agency |
| FDS | Fixed Dissolved Solids |
| Industrial General Permit | Waste Discharge Requirements for Discharge of Storm Water Associated with Industrial Activities Excluding Construction Activities |
| LEA | Local Enforcement Agency |
| MDL | Method Detection Limit |
| mg/L | Milligrams per Liter |
| mg/kg | Milligrams per kilogram |
| µmhos/cm | Micromhos per centimeter |
| MRP | Monitoring and Reporting Program |
| NOA | Notice of Applicability |
| NOI | Notice of Intent to Comply with the Terms of General Waste Discharge Requirements for Composting Operations |
| NPDES | National Pollutant Discharge Elimination System |

| | |
|---|---|
| PDF | Portable Document Format |
| POTW | Publicly Owned Treatment Works |
| PQL | Practical Quantitation Limit |
| QA/QC | Quality Assurance/Quality Control |
| Regional Water Board | Regional Water Quality Control Board |
| State Water Board | State Water Resources Control Board |
| TDS | Total Dissolved Solids |
| TTWQ | Threat to Water Quality Rating |
| U.S. EPA | United States Environmental Protection Agency |
| WDRs | Waste Discharge Requirements |

## (begin insert) BACKGROUND FOR REVISING ORDER WQ 2015-0121-DWQ

On August 4, 2015, the State Water Resources Control Board (State Water Board) adopted General Waste Discharge Requirements for Composting Operations (General Order, Order WQ-2015-0121-DWQ). The General Order includes requirements to protect water quality from composting activities while streamlining the permitting process. The General Order applies to facilities that aerobically compost materials such as green waste, manure, anaerobic digestate, biosolids, food scraps, and scrap paper products. Eligible composting operations are classified into two tiers based on types of feedstocks used, volume of materials on site, and hydrogeologic site conditions. Tier 2 specifications are more protective of water quality than Tier 1 and apply to facilities with greater volumes or materials which pose a higher threat to water quality.

At the September 19, 2017 State Water Board meeting, staff presented an informational item on the implementation of the General Order, providing information about performance measures, enrollment, and compliance. Stakeholders expressed concerns regarding limitations of the agricultural exemption and requirements for composting manure. The Board directed staff to evaluate the General Order relative to these concerns and report back with recommendations in six months.

At the March 20, 2018 State Water Board meeting, staff presented an informational item with recommendations for pursuing changes to the agricultural exemption, requirements for composting manure, and to provide clarity regarding applicability of the General Order. The Board supported staff's recommendations and directed staff to revise the General Order. These revisions affect new composting operations or existing composting operations that may now be eligible for a different tier or exemption.

Manure is a nutrient-rich material and can be a beneficial soil amendment when applied at agronomic rates. Manure may also be composted to create a beneficial soil amendment. A variety of methods are used to manage manure at agricultural operations including land spreading, anaerobic digestion, and composting. Currently, the predominant practice for manure management is stockpiling on site and applying to feed crops.

Research by the Central Valley Dairy Representative Monitoring Program (CVDRMP) indicates there are greater impacts to water quality from over-application of manure to fields than from corrals and manure storage areas; some dairies have more manure than can be land-applied agronomically on-site. Untreated manure is expensive to transport and the crops to which it can be applied are limited.

The CVDRMP evaluated best management practices (BMPs) for storing, handling, and processing dairy manure. Recommendations were submitted in 2019 on behalf of CVDRMP members to the Central Valley Regional Water Board based on results of monitoring and research conducted by CVDRMP. One key recommendation for achieving a whole-farm nitrogen balance at all dairies is to build the capacity for exporting excess manure from dairies to willing participants (e.g., farmers in need of nitrogen fertilizer or organic material to improve soil health) in an economically sustainable manner. One potential component of expanding the capacity to export manure is composting.

Research to evaluate BMPs for composting manure in California soil and climate conditions will performed as a result of a State Water Board contract with the University of California at Davis. The amendments to the General Order remove barriers to create compost for beneficial uses.

Order WQ-2020-XXXX-DWQ amends Order WQ-2015-0121-DWQ. (end insert)

## FINDINGS AND BACKGROUND INFORMATION

The State Water Resources Control Board (State Water Board) finds that:

1. The State of California currently disposes an estimated 35 million tons of waste annually in landfills, of which 32 percent is compostable organic material, 29 percent is construction debris, and 17 percent is paper.
2. Composting is the biological decomposition of organic materials by microorganisms under controlled aerobic conditions to create a product (e.g., soil amendment or soil blend). Compostable materials comprise a wide range of material types: grass, leaves, branches, prunings, stumps, wood waste, agricultural materials, manure, food, and biosolids.
3. Composting organic material yields environmental benefits by recycling nutrients and diverting materials from landfills. Diversion of compostable materials from landfills reduces the amount of material landfilled and extends landfill capacity and service life.
4. Compost can be a valuable soil amendment that improves soil tilth and plant health, increases soil water holding capacity, reduces runoff, adds beneficial micro-organisms, adds organic matter, and sequesters carbon.
5. Composting activities typically occur on open and uncovered land, exposed to precipitation. However, some composting activities are performed within structures, protected from precipitation.
6. Compostable materials may contain nutrients, metals, salts, pathogens, and oxygen- reducing compounds that can degrade water quality if allowed to migrate into groundwater or surface water. The process of composting can allow contaminants to migrate with leachate or wastewater from these materials. Additionally, composting nutrient-rich feedstocks on more permeable soil has the potential to create elevated nitrate concentrations in groundwater.
7. Composting facilities may contain areas where composting operations occur as well as ancillary buildings (e.g., office space, equipment storage, etc.). For the purposes of these General Waste Discharge Requirements for Composting Operations (General Order), the term "Composting Operation" shall mean the area at which operations are conducted, including the receiving area, pre-processing, processing, curing, storage areas, detention

ponds, and other areas associated with production of compost, including storage areas for feedstocks, additives, or amendments. Attachment A, attached hereto and made part of this order, provides definitions of terms and phrases used in this General Order.

8. For the purposes of this General Order, all references to compost include compost piles actively being composted, cured, and stored on site to mature prior to sale or use (final product).

9. Water Code section 13260, subdivision (a) requires that any person discharging waste or proposing to discharge waste, other than to a community sewer system, that could affect the quality of the waters of the state, shall file a report of waste discharge. Water Code section 13263 provides that a Regional Water Quality Control Board (Regional Water Board) or the State Water Board shall prescribe waste discharge requirements (WDRs) that implement the Regional Water Boards' water quality control plans (Basin Plans) and take into consideration the beneficial uses to be protected and the water quality objectives reasonably required for that purpose and the need to prevent nuisance. "Waste" is defined in Water Code section 13050, subdivision (d).

10. Assembly Bill No. 341 enacted in 2011 (2011–2012 Reg. Sess.; Stats. 2011, ch. 476) established a policy goal that not less than 75 percent of the solid waste generated in the state be source-reduced, recycled, or composted by 2020. The California Department of Resources Recycling and Recovery (CalRecycle) developed a plan to increase the diversion of compostable materials.

11. CalRecycle has adopted regulations governing compostable material handling facilities. (Cal. Code Regs., tit. 14, div. 7, ch. 3.1.) The regulations address composting operations including facility siting, design standards, operating standards, environmental health standards, such as sampling and pathogen reduction requirements for the compost products derived from compostable materials prior to being sold or given away, recordkeeping, monitoring, reporting, and site restoration. CalRecycle's authority does not include regulating water quality. The State Water Board and each Regional Water Board have primary responsibility for coordination and control of water quality (Wat. Code, § 13001).

12. Historic regulation of composting operations by the Regional Water Boards has included individual WDRs or conditional waivers of WDRs. This General Order provides a streamlined method to allow the Regional Water Boards to permit composting operations and address potential impacts to water quality.

13. (begin delete) ~~Dischargers~~ (end delete) (begin insert) Composting (end insert) activities covered by individual WDRs or a conditional waiver of WDRs may continue (begin delete) ~~discharging~~ (end delete) (begin insert) operating (end insert) under that authority until those orders expire or come up for renewal. At that time, or earlier at the discretion of the Regional Water Boards, it is the intent of the State Water Board that Regional Water Boards will enroll all eligible composting operations under this General Order (begin insert) as appropriate (end insert). If a Regional Water Board determines that, due to site-specific conditions (begin insert) and operations, the General Order will not appropriately address a composting operation or if (end insert) coverage under this General Order will not be protective of water quality, the Regional Water Board may issue individual WDRs for a composting operation. If a composting operation is co-located at a (begin delete) ~~landfill or other~~ (end delete) facility that has individual or general WDRs, the composting operation does not need to be covered under this General Order if the (begin delete) ~~landfill or other~~ (end delete) facility's WDRs include requirements for the composting (begin delete) ~~operation~~ (end delete) (begin insert) activities that are protective of water quality (end insert) as determined by the Regional Water Board.

14. Water Code section 13263, subdivision (i) states that the State Water Board or a Regional Water Board may prescribe general WDRs for a category of discharges if the State Water Board or Regional Water Board finds or determines that all of the following criteria apply to the discharges in that category:

    a. The discharges are produced by the same or similar operations;
    b. The discharges involve the same or similar types of waste;
    c. The discharges require the same or similar treatment standards; and
    d. The discharges are more appropriately regulated under general WDRs than individual WDRs.

    Composting operations that will be regulated under this General Order are consistent with the criteria listed above, and therefore a general order is appropriate. A ll discharges regulated under this order will be from similar operations and will be consistent with the description of composting operations as defined in this General Order. The discharges will use similar containment methods (e.g. pads and ponds). Individual WDRs are not necessary because the discharges are similar and discharge requirements would be similar if individual WDRs were issued.

15. This General Order does not preempt or supersede the authority of federal, state, or local governmental agencies to prohibit, restrict, or control discharges of waste subject to their jurisdiction.
16. A composting operation typically consists of a receiving and storage area for feedstocks, additives and amendments; a pre-processing area where materials are prepared for composting (screening, size adjustment, etc.); an active composting area; a curing area where the material matures before sale (moisture content and temperature is reduced); and a final screening and storage area where the final compost product is prepared for sale. Additives and amendments are often added to compost to adjust moisture content, product bulk, or pH.
17. Composting can be done on a small or large scale. This General Order only addresses composting operations that receive, process, and store at least 500 cubic yards of materials at any given time.
18. Composting typically results in release of (begin delete) ~~water~~ (end delete) (begin insert) liquid (end insert) from the feedstock material as biological decomposition occurs. The released (begin delete) ~~water becomes~~ (end delete) (begin insert) liquid is (end insert) leachate and, if sufficient in volume, will drain from the compost pile. Precipitation that falls on, or water that is applied to the compost piles may also result in (begin delete) ~~liquid~~ (end delete) (begin insert) leachate (end insert) draining from the compost piles. (begin delete) ~~The liquids~~ (end delete) (begin insert) Leachate (end insert) may contain (begin insert) dissolved solids, (end insert) nutrients, metals, salts, pathogens, and/or oxygen reducing compounds.
19. Water (begin delete) ~~is evaporated~~ (end delete) (begin insert) evaporates (end insert) from the compost piles, in part due to the heat generated in biological decomposition. (begin delete) ~~Water is~~ (end delete) (begin insert) Liquids are (end insert) added to maintain appropriate moisture content. (begin delete) ~~The water~~ (end delete) (begin insert) Added liquids (end insert) may include wastewater collected in (begin delete) ~~the~~ (end delete) detention pond(begin insert)s(end insert), or water from (begin delete) ~~another~~ (end delete) (begin insert) a (end insert) water supply source.
20. Composting operations have the potential to degrade water quality with nutrients (e.g., nitrate), salinity (e.g., sodium chloride), pathogens, oxygen-reducing materials, sediment, and other waste constituents. Implementation of best practicable treatment or control (BPTC) can prevent or limit the degradation.
21. Composting operation setbacks from water supply wells and surface water bodies are provided in this General Order. Setbacks are included as a

means of reducing pathogenic risks by coupling pathogen inactivation rates with groundwater travel time to a well or other potential exposure route (e.g. water contact activities). In general, a substantial unsaturated zone reduces pathogen survival compared to saturated soil conditions. Fine grained (silt or clay) soil particles reduce the rate of groundwater transport and therefore are generally less likely to transport pathogens; coarse grained soil particles or fracture flow groundwater conditions may be more likely to transport pathogens. Setbacks also provide attenuation of other wastewater constituents through physical, chemical, and biological processes.

22. Strategies to control infiltration of wastewater into groundwater include reducing the permeability of areas where compostable materials are stored or composted, constructing sloped pads to facilitate drainage to a detention pond or tank, and reducing the permeability of detention ponds.
23. Wastewater refers to leachate or any other liquid flowing from, or on the working surface. That wastewater from the working surface may be conveyed to a detention pond. Wastewater may be reapplied to the compost piles as needed.
24. Total dissolved solids (TDS) consists of both volatile (organic) and fixed (inorganic) fractions. Varying concentrations of volatile dissolved solids will exist in wastewater that is collected in the detention pond. Volatile dissolved solids in the wastewater reapplied to compost piles may be reduced to negligible concentrations by filtration and biological degradation. However, fixed dissolved solids (FDS) do not degrade biologically.
25. The 40 Code of Federal Regulations part 503 biosolids regulations establish ceiling concentration limits for metals; pollutant concentration limits; Class A pathogen requirements; Class B pathogen requirements; site restrictions; and vector attraction reduction requirements.
26. This General Order requires biosolids that are used as a feedstock at the composting facility to comply, at a minimum, with the ceiling concentrations listed in Table 1 of 40 Code of Federal Regulations part 503.13 listed in Table 1 below, and Class B pathogen requirements. The United States Environmental Protection Agency (U.S. EPA) regularly reviews, and may revise, the limitations and requirements of 40 Code of Federal Regulations, part 503. Consult 40 Code of Federal Regulations part 503 for updates.

**Table 1. Biosolids Feedstock Ceiling Concentrations**

| Constituent | Ceiling Concentration (Milligrams per Kilogram) |
|---|---|
| Arsenic | 75 |
| Cadmium | 85 |
| Copper | 4,300 |
| Lead | 840 |
| Mercury | 57 |
| Molybdenum | 75 |
| Nickel | 420 |
| Selenium | 100 |
| Zinc | 7,500 |

## SCOPE OF THIS GENERAL ORDER

27. The amount and type of feedstocks composted, as well as site conditions such as depth to groundwater, percolation rate, and proximity to surface water and wells inherently affects the threat to water quality. This General Order employs a tiered approach to regulating composting operations.

28. Only composting operations that comply with the allowable feedstock and setback requirements are eligible for coverage under this General Order.

    a. Tier 1 and Tier 2 allowable feedstocks (as defined in Attachment A) are limited to the materials listed in Table 2. (begin delete) ~~below:~~ (end delete)

    b. (begin insert) Composting operations shall be setback at least 100 feet from the nearest surface water body and/or the nearest water supply well. A lesser setback distance may be allowed by the Regional Water Board if the Discharger can demonstrate that the groundwater, geologic, topographic, and well construction conditions at the site are adequate to protect water quality. (end insert)

**Table 2. Allowable Feedstocks**

**Tier 1 Feedstocks:**

- (begin insert) Vegetative (end insert) agricultural materials,
- Green materials,
- Paper materials,
- Vegetative food materials,
- Anaerobic digestate derived from allowable Tier 1 feedstocks,
- Residentially co-collected or self-hauled food and green materials (begin insert), and,
- Manure: in accordance with Finding 29 and Design, Construction, and Operation Requirements for Composting Manure at Tier 1 Facilities. (end insert)

**Tier 2 Feedstocks:**

- Food materials (non-vegetative),
- Biosolids (Class A, B, and/or Exceptional Quality (EQ)): as defined in Attachment A,
- (begin delete) ~~Manure,~~ (end delete) Anaerobic digestate derived from allowable Tier 2 feedstocks, and
- A combination of allowable Tier 1 and Tier 2 feedstocks

29. (begin delete) ~~b. Composting operations shall be setback at least 100 feet from the nearest surface water body and/or the nearest water supply well. A lesser setback distance may be allowed by the Regional Water Board if the Discharger can demonstrate that the groundwater, geologic, topographic, and well construction conditions at the site are adequate to protect water quality.~~ (end delete) Composting operations (Tier 1 or Tier 2) are classified based on the types of feedstocks; total volume of materials received, processed, and stored at any given time; and hydrogeologic siting considerations. The tiers are defined as follows:

    a. **Tier 1** includes a composting operation that meets all the following conditions:

        1) The feedstocks are limited to Tier 1 feedstocks listed in Table 2 and defined in Attachment A;

        2) The facility receives, processes, and stores less than 25,000 cubic yards of a combination of allowable Tier 1 feedstocks, compost (active, curing, and final product), additives and amendments on site at any given time; and

3) The percolation rate and depth to the highest anticipated groundwater level underlying the composting operation is consistent with Table 3 below. (begin insert)

Manure may be accepted as a feedstock at Tier 1 facilities if a groundwater protection monitoring plan is implemented for the composting operation. The Discharger shall confirm this intention by submitting a complete Groundwater Protection Monitoring Plan in the technical report with the Notice of Intent, as described in Attachment D. Groundwater monitoring wells must be constructed and monitored in accordance with the requirements of Attachment D to allow early detection of potential migration of waste constituents to the environment. If a groundwater protection monitoring plan is not implemented, the Discharger must seek coverage under Tier 2. (end insert)

**Table 3. Tier 1 Percolation Rate and Depth to Groundwater Standards**

| Soil Percolation Rate | Depth to Groundwater (minimum) |
|---|---|
| < 1 minutes per inch | 50 feet |
| 1 to 5 minutes per inch | 20 feet |
| > 5 to 30 minutes per inch | 8 feet |
| > 30 minutes per inch | 5 feet |

b. **Tier 2** includes a composting operation that meets one or more of the following conditions:

1) The feedstocks include any of the Tier 2 feedstocks listed in Table 2, and defined in Attachment A;

2) The facility receives, processes and stores 25,000 cubic yards or more of (begin delete) ~~a combination of~~ (end delete) allowable Tier 1 and (begin insert) /or (end insert) Tier 2 feedstocks, compost, additives and amendments on site at any given time; and/or

3) The site-specific hydrogeologic conditions do not meet the Tier 1 percolation rate and depth to groundwater standards listed in Table 3. (begin insert)

30. The following activities are unlikely to degrade water quality if the management practices noted below are implemented and are therefore conditionally exempt from this General Order. However, the Regional Water Board may determine individual WDRs are appropriate under site-specific

conditions. Conditionally exempt composting operations may be subject to other federal, state, or local regulations.

a. Composting operations that meet all the following conditions:

1) The facility receives, processes, and stores less than 25,000 cubic yards of a combination of allowable feedstocks, compost (active, curing, and final product), additives and amendments on site at any given time;

2) Feedstocks consist of vegetative agricultural materials, green materials, and/or manure, all of which are generated by production of farm, ranch, agricultural, horticultural, aquaculture, silvicultural, floricultural, vermicultural, or viticultural products, and/or other material as allowed by the Regional Water Board, but do not include animal carcasses. Examples include manures and bedding, orchard and vineyard prunings, culls and crop residues, and spoiled or unsalvageable food commodities;

3) The resulting compost product is returned to the same site or a property owned by the owner of the composting activity and applied at an agronomic rate; and

4) No more than 5,000 cubic yards of compost final product is given away or sold annually; and

b. Composting operations that receive, process and store less than 5,000 cubic yards per year of allowable Tier 1 and/or Tier 2 feedstocks, additives and amendments.

Conditionally exempt activities must implement the following best management practices:

1) Materials and activities on site must not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance;

2) Activities shall be setback at least 100 feet from the nearest surface water body and/or the nearest water supply well;

3) Dischargers must implement practices to minimize or eliminate the discharge of wastes that may adversely impact the quality or beneficial uses of waters of the state;

4) Dischargers must manage the application of water (including from precipitation events) to reduce the generation of wastewater; and

5) Working surfaces must be designed to prevent, to the greatest extent possible, ponding, infiltration, inundation, and erosion, notwithstanding precipitation events, equipment movement, and other aspects of the facility operations. (end insert)

31. The following composting-related activities are unlikely to degrade water quality and are therefore exempt from this General Order. However, the Regional Water Board may determine individual WDRs are appropriate under site-specific conditions. Composting operations may be subject to other federal, state, or local regulations. (begin delete)~~Agricultural composting;~~ (end delete)
    a. Chipping and grinding facilities and operations. This includes chipping and grinding facilities and operations at a composting facility if located outside of the composting operation area;
    b. Lot clearing by local government agencies (e.g., grubbing, tree trimming, etc.) for fire protection;
    c. Composting activities that are within a fully enclosed vessel;
    d. Composting operations that receive, process, and store less than 500 cy of allowable materials at any given time; and (begin delete)
    ~~e. Composting operations that receive, process and store less than 5,000 cy per year of allowable Tier I and Tier II feedstocks, additives and amendments that implement the following management practices:~~
    ~~f. Completely cover materials during storm events as needed to reduce the generation of wastewater; and~~
    g. ~~Manage the application of water to reduce the generation of wastewater.~~ (end delete) (begin insert) Composting operations that are regulated through individual or general WDRs with requirements for the composting activities that are protective of water quality as determined by the Regional Water Board. (end insert)
32. Discharges of the following wastes may pose a significant threat to water quality and are therefore prohibited from being discharged under this General Order. The discharge of these wastes may be more appropriately regulated by individual WDRs or other orders issued by the Regional Water Board.
    a. Animal carcasses (begin insert) (whole or in part) (end insert);
    b. Liquid wastes other than those of food origin;
    c. Medical wastes as defined in Health and Safety Code section 117690;
    d. Radioactive wastes;
    e. Septage;
    f. Sludge, including but not limited to sewage sludge, water treatment sludge, and industrial sludge;
    g. Wastes classified as "designated", as defined in Water Code section 13173;

h. Wastes classified as "hazardous" as defined in California Code of Regulations, title 22, section 66261.3;

i. Wood containing lead-based paint or wood preservatives, or ash from such wood; or

j. Any feedstock, additive, or amendment other than those specifically described in this General Order, unless approved by the Regional Water Board as described in the Specifications.

33. The use of additives and amendments, as defined and limited by this General Order, is not expected to pose a significant threat to water quality as long as the Discharger maintains compliance with the requirements and prohibitions of this General Order. A Regional Water Board may limit or prohibit the use of an additive or amendment if the use of the additive or amendment could result in pollution or nuisance.

34. Compliance with design specifications and associated performance requirements included in this General Order is determined to be protective of water quality.

35. The requirements in this General Order do not apply to the application or use of the final compost product.

36. Technical and monitoring reports specified in this General Order are required. Failing to furnish the reports by the due date or falsifying information in the reports, are misdemeanors that may result in assessment of civil liabilities against the Discharger. Water Code section 13267 states, in part:

"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports and shall identify the evidence that supports requiring that person to provide the reports."

The technical reports required by this General Order and the Monitoring and Reporting Program (MRP) in Attachment B are necessary to assure compliance with this General Order.

37. In accordance with Water Code section 13000 et seq., this General Order implements regulations and policies adopted by the State Water Board, including the agency's regulations under California Code of Regulations, title 23, and implements applicable provisions of the Health and Safety Code.

## APPLICATION PROCESS

38. (begin delete) ~~Existing composting~~ (end delete) (begin insert) Composting (end insert) operations (begin insert) that were in operation prior to August 4, 2015 when General Order WQ 2015-0121-DWQ was adopted (end insert), except those with individual WDRs, general WDRs, or conditional waivers of WDRs that address the composting operation as determined by the Regional Water Board, (begin delete) ~~are~~ (end delete) (begin insert) were (end insert) required to seek coverage under (begin delete) ~~this~~ (end delete) (begin insert) the (end insert) General Order by submitting a complete Notice of Intent (NOI) (Attachment C), including the appropriate filing fee (Cal. Code Regs., tit. 23, § 2200), and a technical report including, but not limited to, information requested in Attachment D to the Regional Water Board. The NOI, filing fee and technical report (begin delete) ~~must~~ (end delete) (begin insert) were required to (end insert) be submitted (begin delete) ~~within one year of adoption of the General Order~~ (end delete) (begin insert) by August 4, 2016 (end insert). The technical report shall include a proposed schedule for full compliance and must be as short as practicable but may not exceed 6 years from the date of the NOI.

39. New composting operations that propose to (begin delete) ~~begin~~ (end delete) (begin insert), or began (end insert) operating after (begin delete) ~~adoption of this General Order~~ (end delete) (begin insert) August 4, 2015 (end insert), are required to seek coverage by submitting a complete NOI (Attachment C), including the appropriate filing fee (Cal. Code Regs., tit. 23, § 2200) and a technical report including, but not limited to, information requested in Attachment D, to the Regional Water Board not less than 90 days prior to commencement of the composting operation. (begin insert) Early consultation with Regional Water Board staff is encouraged. (end insert)

40. For the purposes of this General Order, an NOI and accompanying technical report (as described in Attachments C and D, respectively) is equivalent to a Report of Waste Discharge. After the Regional Water Board determines that the NOI and accompanying technical report are complete, the initial fee has been received, and the composting operation can be appropriately regulated under this General Order, a Notice of Applicability (NOA) will be issued by the Regional Water Board. Within the NOA, the Regional Water Board will at

a minimum, confirm a Discharger's tier, timeline for compliance, and method of monitoring to comply with applicable monitoring requirements.

41. Upon issuance of an NOA for coverage under this General Order, the Discharger's NOI and technical report will become incorporated by reference into this General Order. The Discharger is responsible for implementing all operations in a manner that complies with this General Order.
42. The Discharger is required to pay an annual fee (e.g., waste discharge permit fee) (Wat. Code, § 13260 et seq.). The filing fee accompanying the NOI is the first year's annual fee. The annual fee is based on the threat to water quality (TTWQ) and complexity (CPLX) rating of the discharge (Cal. Code Regs., tit. 23, § 2200.). The ratings are available at: http://www.waterboards.ca.gov/resources/fees/.

## ANTIDEGRADATION ANALYSIS

43. State Water Board Resolution No. 68-16, *Statement of Policy with Respect to Maintaining High Quality of Waters of California* (hereafter the Antidegradation Policy) requires that disposal of waste into the waters of the state be regulated to achieve the highest water quality consistent with maximum benefit to the people of the state. The quality of some waters of the state is higher than that established by adopted policies, and that higher quality water shall be maintained to the maximum extent possible consistent with the Antidegradation Policy. The Antidegradation Policy requires the following:
    a. Maintenance of existing high quality waters of the state unless limited degradation is consistent with maximum benefit to the people of the state, will not unreasonably affect present and anticipated beneficial use of the water, and will not result in water quality less than that prescribed in state policies.
    b. Any activity that produces or may produce a waste and discharges or proposes to discharge to existing high quality waters will be required to meet WDRs that will result in BPTC of the discharge necessary to assure pollution or nuisance will not occur, and the highest water quality consistent with maximum benefit to the people of the state will be maintained.
44. When issuing NOAs under this General Order, the Regional Water Board must assure that Dischargers implement BPTC as necessary to maintain the highest water quality consistent with maximum benefit to the people of the state.

45. This General Order may allow limited discharges to groundwater. There are not sufficient data to determine which receiving waters are high quality waters. To the extent a discharge covered under this General Order may be to high quality waters, this General Order authorizes limited degradation consistent with the Antidegradation Policy as described in the findings below.

46. Limited degradation of groundwater by some waste constituents associated with composting operations, after effective source control, treatment, and control measures are implemented, is consistent with the maximum benefit to the people of the state. The economic prosperity of communities and associated industry, and the diversion of wastes from landfills and associated conservation of landfill space are of maximum benefit to the people of the state and provide sufficient justification for allowing limited groundwater degradation that may occur pursuant to this General Order provided the terms of the applicable Basin Plan and other applicable State Water Board and Regional Water Board policies are consistently met.

47. This General Order places restrictions on the discharge of waste from composting operations. The terms and conditions of this General Order are designed to minimize groundwater quality degradation and protect beneficial uses of waters of the state. Implementation of water and wastewater management plans, groundwater protection plans, and construction of waste containment features at composting operations will minimize groundwater quality degradation.

48. The General Order establishes limits on the volume, types, and quality of the feedstocks, additives and amendments used at the facility. Some waste types are explicitly prohibited from use due to their threat to water quality. All feedstocks, additives and amendments must be contained in areas to control wastewater. In addition, hydrogeologic site conditions are considered when classifying a compost facility as Tier 1 or Tier 2.

    Facilities that receive, process, and store less than 25,000 cubic yards of allowable Tier 1 feedstocks, compost, additives and amendments on site at any given time are inherently less likely to degrade water quality because the amount and types of waste constituents present at the facility is lower than at Tier 2 facilities. The limits apply both to the feedstocks and the types and amounts of additives and amendments. Tier 1 facilities must also comply with the hydrogeologic site conditions (depth to groundwater and percolation rate) specified in the General Order. (begin insert) Tier 1 composting operations that do not meet Tier 1 hydrogeologic site conditions must comply with Tier 2 design and operation standards.

In addition, groundwater monitoring wells must be constructed at Tier 1 composting operations that accept manure as a feedstock to allow early detection of potential migration of waste constituents to the environment. If a groundwater protection monitoring plan is not implemented, the Discharger must comply with Tier 2 design and operation standards. (end insert)

Tier 2 facilities impose additional BPTC measures such as limits on feedstock quality; and hydraulic conductivity requirements for working surfaces, detention ponds, and drainage ditches. Biosolids used as a feedstock must comply with the ceiling concentrations contained in Code of Federal Regulations, section 503.13 (Table 1), at a minimum. In addition, detention ponds must be constructed with a pan lysimeter to allow early detection of pond liner leakage.

49. To mitigate potential impacts to water quality, siting restrictions specified in this General Order prohibit composting operations within 100 feet of the nearest surface water body or water supply well. A lesser setback distance may be allowed by the Regional Water Board if the Discharger can demonstrate that the groundwater, geologic, topographic, and well construction conditions at the site are adequate to protect water quality. In addition, feedstocks used (Table 2), volume of materials (received, processed and stored) on site at any given time, soil percolation rate, and depth to groundwater standards (Table 3) of this General Order are used to classify composting operations into two tiers. Composting operations not meeting minimum standards for percolation rate and depth to groundwater are classified into the more protective Tier 2 category.

50. This General Order establishes requirements and standards for BPTC measures to limit or prevent degradation. Identified BPTC measures include:

    a. Minimize Infiltration of Waste Constituents on Working Surfaces - The most effective way to reduce or eliminate water quality impacts is to restrict infiltration of wastes on working surfaces (including receiving, processing, and storage areas). The General Order requires working surfaces to be designed and constructed to be sloped to prevent ponding and convey wastewater to an approved wastewater management system. Tier 2 facilities must also comply with a hydraulic conductivity standard to limit infiltration of liquids to the subsurface at working surfaces, drainage ditches and detention ponds.

    b. Design and Operate Detention Ponds to Contain and Reuse Wastewater - All detention ponds must comply with design, construction, and maintenance requirements in this General Order. The General Order includes requirements that ponds must be designed and certified by a registered professional engineer to have adequate

capacity and structural integrity to hold wastewater and precipitation. All ponds must be managed to prevent breeding of mosquitos and generation of odors. Detention ponds constructed at Tier 2 facilities must also comply with a hydraulic conductivity standard to limit infiltration of liquids to the subsurface.

c. Perform Monitoring to Ensure BPTC Measures are Effective - To detect potential threats to water quality, detention ponds constructed at Tier 2 facilities must be constructed with a pan lysimeter monitoring device under the lowest point of the pond or equivalent engineered alternative approved by the Regional Water Board. The engineered alternative must provide equivalent assurance of the earliest possible detection of a release from the pond.

51. The State Water Board recognizes that composting operations play an important role in meeting California's recycling goals to divert more wastes from landfills into reusable products. In addition, composting is a strategy for reducing greenhouse gas emissions throughout the state. Benefits of using compost include increasing soil water holding capacity, adding beneficial micro-organisms to improve soil health, improving soil tilth, and carbon sequestration. Considering these benefits, the State Water Board finds that composting in compliance with this General Order is consistent with the maximum benefit to the people of the state.

## TITLE 27 APPLICABILITY

52. California Code of Regulations, title 27, sections 20200 through 20230 establish a waste classification system. Wastes covered under California Code of Regulations, title 27 are classified as either inert, nonhazardous solid, or designated. Inert wastes pose minimal risk to water quality, nonhazardous solid wastes present a greater risk than inert wastes, and designated wastes pose the greatest risk to water quality. Allowable compostable materials per this General Order meet the definition of nonhazardous solid waste under California Code of Regulations, title 27, section 20220, subdivision (a).

53. California Code of Regulations, title 27, section 20200, subdivision (a)(1) allows a finding to be made that, "...a particular waste constituent or combination of constituents presents a lower risk of water quality degradation than indicated by classification according to this article." Therefore, to the extent that a particular compostable material could be characterized as designated waste, such material shall be regulated as a nonhazardous solid waste pursuant to California Code of Regulations, title 27, section 20200, subdivision (a)(1) because the compostable material presents a lower risk to

water quality than typical designated wastes when managed as required by this General Order.

54. (begin delete) ~~The~~ (end delete) California Code of Regulations, title 27, regulations (begin insert) include requirements for containing nonhazardous waste (end insert) (begin delete) ~~that apply to nonhazardous solid waste only apply to such waste~~ (end delete) that is disposed (begin delete) ~~of in a landfill~~ (end delete) (begin insert) in facilities such as landfills (end insert). (begin delete) ~~Diverting compostable organic materials from landfills is one of the goals of this General Order.~~ (end delete) (begin insert) Because composting facilities do not operate like disposal facilities, and these requirements are sufficient to protect water quality from the discharges eligible for coverage under this General Order (end insert) (begin delete) ~~Therefore~~ (end delete), (begin insert) California Code of Regulations, title 27, do not apply to (end insert) compost operations (begin delete) ~~eligible for coverage~~ (end delete) (begin insert) enrolled (end insert) under this General Order (begin delete) ~~California Code of Regulations, title 27 regulations shall not apply~~ (end delete) so long as the Discharger continues to meet the requirements of this General Order.

## CALIFORNIA ENVIRONMENTAL QUALITY ACT

55. On August (begin delete) ~~7~~ (end delete) (begin insert) 4 (end insert), 2015, in accordance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), the State Water Board certified Environmental Impact Report (EIR) No. 2015012021 for (begin delete) ~~this~~ (end delete) General Order (begin insert) WQ 2015-0121-DWQ (end insert). Several significant impacts related to water quality were identified in the EIR. The General Order contains mitigation measures designed to reduce the impact when possible. A summary of the water quality related significant impacts and the mitigation measures is presented below:

| EIR Impact Number | Impact Summary | General Order Mitigation Measures |
|---|---|---|
| Impact 6.5 | Composting operations have the potential to create objectionable odors affecting a substantial number of people. | The General Order requires control of objectionable odors. Mitigation measures are contained in the Specifications and Design Construction and Operation Requirements – All Tiers. |
| Impact 9.2 | Composting operations have the potential to result in substantial soil erosion or loss of topsoil. | The General Order requires control of wastewater generated by the compost process. Mitigation measures are contained in the Design Construction and Operation Requirements – All Tiers. |
| Impact 11.1 | Composting operations have the potential to result in violations of water quality standards or waste discharge requirements. | The General Order requires surface and groundwater quality to be maintained to protect beneficial uses. The following mitigation measures related to water quality standards are included in the General Order:<br>• For mitigation related to surface water objectives, see mitigation measures in response to Impact 9.2 (listed above).<br>• For mitigation related to groundwater objectives mitigation measures are contained in Prohibitions, Specifications, Design Construction and Operation Requirements – All Tiers, and Tier 2, and maintenance requirements. The General Order limits the types of feedstocks used and requires certain containment requirements to minimize infiltration. |

| EIR Impact Number | Impact Summary | General Order Mitigation Measures |
|---|---|---|
| Impact 11.3 | Composting operations have the potential to substantially alter existing drainage resulting in substantial erosion or siltation on- or off-site. | Composting operations will be designed to contain wastewater on-site. See the mitigation measures described for Impact 9.2 and 11.1. Requirements of the General Order to contain wastewater on-site include the following:<br>• Design, construct, and maintain areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost to control and manage run-on and run-off from a 25-year, 24-hour peak storm event;<br>• Protect areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost from surface flows associated with a 25-year, 24-hour peak storm event from inundation by surface flow;<br>• Design and operate the detention pond, containment berm, and drainage conveyance systems to contain a 25-year, 24-hour peak storm event;<br>Require low permeability drainage ditches for Tier 2 operations. |

| EIR Impact Number | Impact Summary | General Order Mitigation Measures |
|---|---|---|
| Impact 11.4 | Composting operations may have the potential to substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. | The General Order requires management of drainage and wastewater run-off. See Mitigation Measures 9.2, 11.1, and 11.3. |
| Impact 11.5 | Composting operations may create or contribute runoff water which could exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | Composting operations will be designed to contain wastewater on-site. See the mitigation measures described for Impact 9.2. |
| Impact 11.6 | Composting operations may have the potential to substantially degrade water quality. | Composting operations will be designed to contain wastewater on-site and prevent wastewater from changing groundwater quality to the extent beneficial uses are impacted. See the responses to Impacts 9.2 and 11.1. |
| Impact 15.2 | Composting operations have the potential to exceed wastewater treatment requirements of the applicable Regional Water Board. | The General Order requires containment of wastewater that is generated. Active treatment systems at composting facilities are possible (most likely a mechanical aerator in a detention pond). If off-site disposal of wastewater is necessary, delivery to a treatment system is possible via a collection system or tank truck hauling. See the responses to Impacts 9.2 and 11.1. |

| EIR Impact Number | Impact Summary | General Order Mitigation Measures |
|---|---|---|
| Impact 15.6 | Composting operations have the potential to result in a determination by the wastewater treatment provider that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | The General Order requires containment of wastewater that is generated; therefore, a discharge at a wastewater treatment facility is unlikely. See the responses to Impacts 9.2 and 11.1. |

56. The State Water Board has notified composting operators and owners, and governmental agencies and interested persons of its intent to certify an EIR and adopt a General Order and provided them the opportunity to attend a public meeting and submit their written views and recommendations.
57. The State Water Board, in a public meeting, heard and considered all comments pertaining to this matter. (begin insert)
58. In accordance with CEQA, the State Water Board certified a Supplement to Environmental Impact Report No. 2015012021 (SEIR) for General Order WQ 2020-XXXX-DWQ on XXXXX XX, 2020. Significant impacts related to water quality were identified in the SEIR as summarized below:
    a. **Manure as a Feedstock for Tier 1 Facilities:** Using manure as a feedstock at Tier 1 facilities has the potential to impact water quality. To mitigate potential impacts, the General Order requires the development and implementation of a groundwater protection monitoring plan for Tier 1 facilities that use manure as a feedstock. If the composting operation is designed, operated, and maintained in compliance with the General Order, potential impacts may be reduced to less than significant.
    b. **Conditionally Exempt Operations:** Conditionally exempt composting operations may pose a threat to water quality. If best management practices are implemented, potential impacts to water quality may be reduced to less than significant.
59. The State Water Board notified composting operators and owners and governmental agencies and interested persons of its intent to certify a SEIR and adopt a General Order. Opportunities to attend a public meeting and submit written comments were provided. The State Water Board heard and considered all comments pertaining to this matter in a public meeting. (end insert)

## OTHER REGULATORY CONSIDERATIONS

60. All WDRs must implement the applicable Regional Water Board's Basin Plan for the region in which the discharge occurs; therefore, this General Order requires dischargers to comply with all applicable Basin Plan requirements and water quality objectives governing the discharge. In the event of a conflict between the requirements of this General Order and the Basin Plan, the more stringent requirement prevails.
61. The Discharger, as a condition of this General Order, may be required to conduct regular maintenance and monitoring to demonstrate protection of water quality and beneficial uses. Dischargers are financially responsible for costs associated with these activities as long as the operation is covered under this General Order.
62. This General Order is not a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to the Federal Clean Water Act. For composting operations where storm water discharges off-site, the Discharger may be required to enroll under the State Water Board's General Order No. 97-03-DWQ (new Industrial General Permit 2014-0057- DWQ will be effective July 1, 2015), NPDES General Permit No. CAS000001, Waste Discharge Requirements for Discharges of Storm Water Associated with Industrial Activities Excluding Construction Activities (Industrial General Permit), and/or future promulgations. If wastewater is discharged to surface water, the Discharger may be required to obtain an individual NPDES permit. Coverage under this General Order does not exempt a facility from the federal Clean Water Act. Any facility required to obtain such permits must notify the Regional Water Board.
63. The issuance of this General Order is consistent with the goal to provide water resources protection, while considering economic and environmental impacts as stated in the Strategic Plan of the Water Boards and section 13263, subdivision (a) of the Water Code. Economic considerations are discussed in Appendix D of the EIR.
64. This General Order does not supersede the authority of local governmental agencies to prohibit, restrict, or control the use of biosolids subject to their control, as allowed under current law. It is the responsibility of the Discharger to obtain any local governmental agency permits or authorizations prior to the composting or use of biosolids at each site.
65. This General Order does not supersede any federal, state, or local law or regulation.
66. Pursuant to Water Code section 13263, subdivision (g), the discharge of waste into waters of the state is a privilege, not a right, and adoption of this

General Order does not create a vested right to discharge wastes into the waters of the state. Failure to prevent conditions that create or threaten to create pollution or nuisance or that may unreasonably degrade waters of the state will be sufficient reason to modify, revoke, or enforce this General Order.

67. Pursuant to Water Code section 13241 and 13263, the State Water Board, in establishing the requirements contained herein, considered factors including, but not limited to, the following:
    a. Past, present, and probable future beneficial uses of water;
    b. Environmental characteristics of the hydrographic unit under consideration, including the quality of water available thereto;
    c. Water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area;
    d. Economic considerations;
    e. The need for developing housing within the region(s); and
    f. The need to develop and use recycled water.

## IT IS HEREBY ORDERED

**IT IS HEREBY ORDERED** pursuant to Water Code sections 13263 and 13267, the Discharger, its agents, successors, and assigns, in order to meet the provisions contained in division 7 of the Water Code and regulations adopted hereunder, shall comply with the following:

## PROHIBITIONS

1. Any feedstock, additive, amendment, or compost (active, curing, or final product) stored, processed, or composted outside of the designated composting operation areas, as those boundaries are specified in an NOI and/or a technical report, and approved by the Regional Water Board, is prohibited.
2. Any volume of any feedstock, additive, amendment, or compost (active, curing, or final product) exceeding those specified in this General Order is prohibited.
3. Use of any feedstock, additive, amendment, or material, other than those described in this General Order is prohibited.

4. Discharge of any of the following wastes, including storage thereof, at a composting operation under this General Order is prohibited:
   a. Animal carcasses (begin insert) (whole or in part) (end insert);
   b. Liquid wastes other than those of food origin;
   c. Medical wastes as defined in the Health and Safety Code section 117690;
   d. Radioactive wastes;
   e. Septage;
   f. Sludge, including but not limited to sewage sludge, water treatment sludge, and industrial sludge;
   g. Wastes classified as "designated" as defined in Water Code section 13173;
   h. Wastes classified as "hazardous" as defined in California Code of Regulations, title 22, section 66261.3;
   i. Wood containing lead-based paint or wood preservatives, or ash from such wood; or
   j. Any feedstock, additive, or amendment other than those specifically described in this General Order, unless approved by the Regional Water Board.
5. Discharges of feedstocks, additives, amendments, or wastes to lands not owned, leased, or otherwise controlled by the Discharger for the purposes of composting is prohibited.
6. Discharge of wastes to surface waters is prohibited, except as authorized by an NPDES permit.
7. Discharge of wastes including overflow, wastewater, or bypass from transport, treatment, storage, or disposal systems to adjacent drainages or adjacent properties is prohibited.
8. Use of biosolids as a feedstock with concentrations of a metal that exceeds the ceiling concentration presented in 40 Code of Federal Regulations section 503.13 (Table 1), is prohibited.
9. Use of biosolids as an additive or amendment is prohibited.
10. Use of anaerobic digestate derived from sewage sludge as an additive or amendment is prohibited.
11. Evapo-concentration of constituents in any detention pond that results in hazardous constituent concentration levels, as defined in California Code of Regulations, title 22, section 66261.3 is prohibited.

## SPECIFICATIONS

1. The use of additives defined in this General Order, and Attachment A, is allowed provided that the additives meet the following specifications.
   a. For Tier 1 facilities, the following approved additives may comprise no more than 10 percent combined, on a total volume basis, of the total feedstocks for any given batch of compost:
      1) Fertilizing material applied at rates that will be consumed or fixed/immobilized during active composting;
      2) Manure;
      3) Anaerobic digestate (solid) derived from any material other than allowable Tier 1 feedstocks; and/or
      4) Other material specified in an NOI and/or a technical report and approved by the Regional Water Board.

      (begin insert) If manure is accepted at greater than 10 percent combined, on a total volume basis, of the total feedstocks for any given batch of compost, a groundwater protection monitoring plan must be implemented for the composting operation in accordance with Finding 29 and Design, Construction, and Operation Requirements for Composting Manure at Tier 1 Facilities. If a groundwater protection monitoring plan is not implemented, the Discharger must seek coverage under Tier 2. (end insert)
   b. For Tier 2 facilities, the following approved additives may comprise no more than 30 percent combined (other than liquid food material), on a total volume basis, of the total feedstocks for any given batch of compost:
      1) Fertilizing material applied at rates that will be consumed or fixed/immobilized during active composting;
      2) Liquid food material specified in an NOI and/or a technical report, and approved by the Regional Water Board, and applied at a rate that prevents conditions leading to pollution or nuisance, as defined in Water Code section 13050;
      3) Anaerobic digestate (solid) derived from any material other than allowable Tier 1 and Tier 2 feedstocks; and/or
      4) Other material specified in an NOI and/or a technical report and approved by the Regional Water Board.
2. Additives and amendments must be handled, stored, and processed in the manner specified in the NOI and/or technical report and approved by the Regional Water Board.

3. All feedstocks, additives, amendments, and compost (active, curing, or final product) must not cause, threaten to cause, or contribute to conditions of pollution, contamination, or nuisance. These discharges must comply with the applicable Basin Plan requirements.
4. All feedstocks, additives, amendments, and compost (active, curing, or final product) must be located on containment structures designed and constructed as required by this General Order.
5. Dischargers must submit with the NOI and technical report, a Water and Wastewater Management Plan that describes how wastewater will be managed to prevent discharge. The plan must describe the design, operations, and maintenance of the systems, including water balance calculations and assumptions, if required.
6. Wastewater shall be handled and managed in accordance with an approved Water and Wastewater Management Plan in the technical report described in Attachment D.
7. Feedstocks for composting shall be limited to the allowable Tier 1 and Tier 2 feedstocks listed in Table 2 and defined in Attachment A.
8. Composting operations shall be setback at least 100 feet from the nearest surface water body and/or the nearest water supply well. A lesser setback distance may be allowed by the Regional Water Board if the Discharger can demonstrate that the groundwater, geologic, topographic, and well construction conditions at the site are adequate to protect water quality.
9. For Tier 1 and Tier 2 facilities, the type of amendments must be specified in a NOI and/or a technical report.

## DESIGN, CONSTRUCTION, AND OPERATION REQUIREMENTS – ALL TIERS

1. Areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost (active, curing, or final product) must be designed to limit water quality degradation. Working surfaces and containment structures must be designed, constructed, operated and maintained to:
   a. Facilitate drainage and minimize ponding by sloping or crowning pads to reduce infiltration of liquids;
   b. Reliably transmit free liquid present during storage, treatment, and processing of materials to a containment structure to minimize the potential for waste constituents to enter groundwater or surface water; and
   c. Prevent conditions that could contribute to, cause, or threaten to cause a condition of contamination, pollution, or nuisance.

2. Working surfaces must be constructed to allow year-round equipment access to feedstocks, additives, amendments, and compost (active, curing, or final product) without damage to the working surfaces and containment structures.
3. To prevent potential impacts to waters of the state, the Discharger must minimize the potential for piles of feedstocks, additives, amendments, or compost (active, curing, or final product) to become over-saturated and generate wastewater.
4. Areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost (active, curing, or final product) must be designed, constructed, and maintained to control and manage all run-on, runoff, and precipitation which falls onto or within the boundaries of these areas, from a 25-year, 24-hour peak storm event at a minimum.
5. Areas used for receiving, processing, or storing feedstocks, additives, amendments, or compost (active, curing, or final product) must be protected from inundation by surface flows associated with a 25-year, 24-hour peak storm event at a minimum.
6. Detention ponds, if used, must be designed, constructed, and maintained to prevent conditions contributing to, causing, or threatening to cause contamination, pollution, or nuisance, and must be capable of containing, without overflow or overtopping (taking into consideration the crest of wind-driven waves and water reused in the composting operation), all runoff from the working surfaces in addition to precipitation that falls into the detention pond from a 25-year, 24-hour peak storm event at a minimum, or equivalent alternative approved by the Regional Water Board.
7. Detention ponds, if used, shall be managed as described in the facility's Water and Wastewater Management Plan.
8. Detention ponds, if used, must be managed to maintain a dissolved oxygen concentration in the upper zone (one foot) of at least 1.0 milligram per liter (mg/L).
9. Detention ponds, if used, shall be managed to mitigate breeding of mosquitoes including, but not limited to the following:
    a. An erosion control program shall be implemented to ensure that small coves and irregularities are not created around the perimeter of the water surface.
    b. Weeds shall be minimized through control of water depth, a shoreline synthetic liner, harvesting, or herbicides.
    c. Dead algae, vegetation, and debris shall be removed from the water surface.

d. Coordination with the local mosquito abatement or vector control district to supplement the measures described above in cases where other methods are infeasible.

10. Berms must be designed, constructed, and maintained to prevent run-on and run-off from a 25-year, 24-hour peak storm event at a minimum. Berms must be adequately protected from erosion, and must not cause, threaten to cause, or contribute to conditions resulting in contamination, pollution, or nuisance.

11. Drainage conveyance systems must be designed, constructed, and maintained for conveyance of wastewater from the working surface in addition to direct precipitation from a 25-year, 24-hour peak storm event at a minimum. Ditches must be properly sloped to minimize ponding and kept free and clear of debris to allow for continuous flow of liquid. Ditches must be adequately protected from erosion, and must not cause, threaten to cause, or contribute to conditions resulting in contamination, pollution, or nuisance. Ditches must be inspected and cleaned out (begin insert) annually (end insert) prior to the wet season (begin delete) ~~every year~~ (end delete).

(begin insert) **DESIGN, CONSTRUCTION, AND OPERATION REQUIREMENTS FOR COMPOSTING MANURE AT TIER 1 FACILITIES**

1. Tier 1 composting operations that propose to compost manure as a feedstock must meet all specifications listed in PROHIBITIONS; SPECIFICATIONS 1(a); SPECIFICATIONS 2–9; and DESIGN, CONSTRUCTION, AND OPERATION REQUIREMENTS – ALL TIERS.
2. The Discharger must implement a groundwater protection monitoring program. The Discharger shall submit a complete Groundwater Protection Monitoring Plan in the technical report with the NOI, as described in Attachment D.
3. Within 90 days of issuance of an NOA for existing facilities or within 90 days after commencement of operations at newly constructed facilities, the Discharger shall implement the approved Groundwater Protection Monitoring Plan. (end insert)

**DESIGN, CONSTRUCTION, AND OPERATION REQUIREMENTS – TIER 2 ONLY**

1. Working surfaces must be capable of resisting damage from the movement of equipment and weight of piles and have a hydraulic conductivity of 1.0 x $10^{-5}$ centimeters per second (cm/s) or less. Working surfaces must consist of one of the following:
   a. Compacted soils, with a minimum thickness of one foot;
   b. Asphaltic concrete or Portland cement concrete; or

c. An equivalent engineered alternative specified in an NOI and/or a technical report and approved by the Regional Water Board.

2. Drainage ditches must be designed, constructed, and maintained to convey all precipitation and runoff from a 25-year, 24-hour peak storm event at a minimum, have a hydraulic conductivity of $1.0 \times 10^{-5}$ cm/s or less, and be lined with one of the following:

   a. Compacted soils, with a minimum thickness of one foot;

   b. Asphaltic concrete or Portland cement concrete; or

   c. An equivalent engineered alternative specified in an NOI and/or a technical report and approved by the Regional Water Board. (begin insert)

3. In lieu of meeting hydraulic conductivity specifications for Tier 2 working surfaces and drainage ditches, the Discharger may implement a groundwater protection monitoring program. The Discharger shall confirm this intention by submitting a complete Groundwater Protection Monitoring Plan in the technical report with the NOI, as described in Attachment D. (end insert)

4. Detention ponds must be designed, constructed, operated, and maintained to meet a hydraulic conductivity of $1.0 \times 10^{-6}$ cm/s or less. These ponds must include one of the following:

   a. A liner system consisting of a 40 thousandths of an inch (mil) synthetic geomembrane (60-mil if high-density polyethylene), underlain by either one foot of compacted clay or a geosynthetic clay liner installed over a prepared base;

   b. A liner system that includes Portland cement concrete – designed to minimize cracking and infiltration – underlain by a 40-mil synthetic geomembrane (60-mil if high-density polyethylene); or

   c. An equivalent engineered alternative specified in an NOI and/or a technical report and approved by the Regional Water Board.

5. Detention ponds must be designed and constructed with a pan lysimeter monitoring device under the lowest point of the pond, or an equivalent engineered alternative specified in an NOI and/or a technical report and approved by the Regional Water Board. The engineered alternative must provide equivalent assurance of the earliest possible detection or prevention of a release from the pond.

6. Tanks, if used, must be designed, operated, maintained and monitored in accordance with applicable laws and regulations.

## MONITORING REQUIREMENTS

1. Dischargers subject to this General Order must implement the applicable requirements specified in Attachment B, the MRP, which are hereby incorporated by reference as part of this General Order.

2. Pursuant to Water Code section 13267, the Discharger must comply with the applicable requirements specified in the MRP (Attachment B). If a site-specific MRP becomes necessary, the Discharger must comply with requirements specified in an individual MRP issued to the Discharger by the Regional Water Board. Failure to comply with the applicable requirements specified in Attachment B or a site-specific MRP issued by the Regional Water Board may subject the Discharger to civil liability. (Wat. Code, § 13268.) (begin delete)

3. ~~In lieu of meeting hydraulic conductivity specifications for Tier 2 working surfaces and drainage ditches, the Discharger may implement a groundwater protection monitoring program. The Discharger shall confirm this intention by submitting a complete Groundwater Protection Monitoring Plan in the technical report with the NOI, as described in Attachment D.~~ (end delete)Within 90 days of issuance of an NOA (begin insert) for existing facilities or within 90 days after commencement of operations at newly constructed facilities (end insert), the Discharger shall implement the approved Groundwater Protection Monitoring Plan, if applicable.

## MAINTENANCE REQUIREMENTS

1. The Discharger shall maintain containment structures (e.g. berms, pads, detention ponds, tanks, run-on/run-off control structures, etc.) and monitoring systems (e.g. groundwater monitoring devices) in good working order.

2. The Discharger must regularly inspect and maintain all containment structures and monitoring systems pursuant to this General Order, MRP, and NOA. The frequency of inspections must be sufficient to prevent feedstocks, additives, amendments, compost (active, curing, or final product), or wastewater from creating, threatening to create, or contributing to conditions of contamination, pollution, or nuisance.

## SITE CLOSURE REQUIREMENTS

1. Release of wastes or waste-derived constituents at an unmanaged, inactive, or abandoned composting operation may cause, threaten to cause, or contribute to degradation of the waters of the state. At least 90 days prior to ceasing composting operations, the discharger shall submit a Site Closure Plan to the Regional Water Board for approval.

2. The Discharger must jointly notify the appropriate Regional Water Board and Local Enforcement Agency in writing at the conclusion of the site closure activities that describes closure in accordance with the Site Closure Plan and Regional Water Board requirements.

## REPORT REQUIREMENTS

1. **General Reporting Requirements** – The Discharger must furnish the following information within a timeframe specified by the Regional Water Board:
   a. Any information which the Regional Water Board may request to determine compliance with this General Order; and
   b. Copies of records required to be kept by this General Order.
2. **NOI and Technical Report** – The Discharger must submit an NOI and technical report as specified in Attachments C and D of this General Order. The Discharger must submit general information, site conditions, design, operations and monitoring information and a compliance schedule for existing facilities. The Discharger must submit a technical report with design information at least 90 days prior to any new construction of any working surfaces, detention ponds, berms, ditches, or any other water quality protection containment structure for approval by the appropriate Regional Water Board. The design information must include water balance calculations for detention ponds, design of wastewater conveyance features, liner materials and thicknesses, and rationale for liner system design. The technical report must ensure testing and quality assurance of liner materials and compacted soils in accordance with commonly accepted engineering practices, American Society for Testing and Materials test methods, and/or other appropriate material standards.
3. **Final Post-Construction Report** – The Discharger must submit a post-construction report to the Regional Water Board within 60 days of completing all construction activities associated with all applicable containment and monitoring structures, as required for compliance with this General Order and the MRP. The post-construction report must contain as-built plans and specifications to document that containment and monitoring structures were properly constructed and tested.
4. **Annual Monitoring and Maintenance Report** - The Discharger must submit an Annual Monitoring and Maintenance Report to the appropriate Regional Water Board no later than **April 1st** of each year (or next subsequent business day, if falling on a weekend or state- observed holiday), as described in the MRP. The Annual Monitoring and Maintenance Report must

summarize all monitoring and maintenance activities performed and adverse conditions noted since the prior reporting period with respect to all berms, ditches, working surfaces, detention ponds, and monitoring systems. As part of the Annual Monitoring and Maintenance Report, the Discharger must certify that the composting operation complies with the requirements of this General Order and applicable portions of the MRP.

5. **Reporting Declaration** - All applications, reports, or information submitted to the Regional Water Boards must be signed and certified as follows:
   a. The NOI must be signed as follows:
      1) For a corporation - by a principal executive officer of at least the level of vice president;
      2) For a partnership or sole proprietorship - by a general partner or the proprietor, respectively;
      3) For a municipality, state, federal, or other public agency - by either a principal executive officer or ranking elected official; or
      4) For a military facility - by the base commander or person with authority and responsibility for environmental matters at the facility.
   b. All other reports required by this General Order and other information required by the Regional Water Board must be signed by a person designated in paragraph (a) above, or by a duly authorized representative of that person. An individual is a duly authorized representative only if:
      1) The authorization is made in writing by a person described in paragraph (a) above;
      2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity; and
      3) The written authorization is submitted to the Regional Water Board.
   c. Any person signing a document under this section must make the following certification:

      "I certify under penalty of law that this document, including all attachments and supplemental information, were prepared under my direction and supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for

submitting false information, including the possibility of fine and imprisonment."

6. **Report Submittals** –The State Water Board and Regional Water Boards are transitioning to the paperless office system. Dischargers must submit reports (both technical and monitoring reports) to the State Water Board's GeoTracker database over the Internet in portable document format (PDF) as specified in California Code of Regulations, title 23, section 3892, subdivision (d) and section 3893. In addition, analytical data must be uploaded to the GeoTracker database under a site-specific global identification number. Information on the GeoTracker database is provided at: http://www.swrcb.ca.gov/ust/electronic_submittal/index.shtml;

7. **Use of Licensed Professionals** – The Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of licensed professionals. Any plan or report submitted in compliance with the requirements of this General Order, which requires technical interpretation, or proposes either a design, or a design change that might affect the composting operation's containment features, detention ponds, or monitoring systems must be prepared by, or under the direction of, appropriately licensed professionals (e.g., registered civil engineer, professional geologist, or other registered certified specialty geologist) by the State of California. In addition, the licensee must sign and provide his or her registration number or stamp the submitted plan or report.

## NOTIFICATION REQUIREMENTS

1. **Revised Notice of Intent** – The Discharger must submit a revised NOI to the Regional Water Board, CalRecycle, and the Local Enforcement Agency at least 90 days prior to: (1) adding a new feedstock, additive, or amendment; (2) changing material or construction specifications; (3) changing a monitoring program; or (4) changing an operation or activity that was not described in the approved NOI and technical report. The Regional Water Board may require submittal of a revised technical report.

2. **Change in Ownership Notification Requirements** – The Discharger must notify the Regional Water Board, CalRecycle, and the Local Enforcement Agency, in writing, at least 30 days in advance of any transfer of the General Order's responsibility and coverage from the current owner to a new owner. This notification shall include:

a. A statement of acknowledgment that the current owner is liable for violations occurring up to the transfer date and that the new owner is liable for violations occurring after the date that ownership of the property transfers; and

b. The new owner's NOI and technical report (if applicable).

3. **Termination of Enrollment** – Enrollment under this General Order may be terminated if any of the following occur:

   a. The Regional Water Board, based on site-specific conditions or management practices, may require the Discharger to apply for individual WDRs. The applicability of this General Order to such dischargers will be rescinded upon adoption of individual WDRs;

   b. At least 90 days prior to terminating all waste discharge activates, the Discharger must submit a Site Closure Plan to the Regional Water Board for approval. Filing a request by the Discharger for termination of this General Order does not stay any requirements of this General Order; or

   c. If the operation is eligible for an exemption due to changes in process or procedures, the Discharger may propose termination. Filing a request by the Discharger for an exemption modification, revocation, reissuance, or termination of this General Order does not stay any requirement of this General Order.

4. **Notification of Violations** – If a violation of requirements of this General Order or MRP occurs, the Discharger must notify the Regional Water Board by telephone or email, within 48hours, once the Discharger has knowledge of the violation. This notification must include a description of the noncompliance and its cause, the period of noncompliance (dates and times); and if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue. The notification must also include steps taken or planned to reduce, eliminate, or prevent recurrence of the noncompliance. Depending on the severity of the violation, the Regional Water Board may require the Discharger to submit a separate technical report regarding the violation within 10 working days of the initial notification.

5. **Monitoring Wells** – The Discharger must comply with all notice and reporting requirements of the Department of Water Resources, and with any local agency well permitting requirements regarding construction, alteration, destruction, or abandonment of any monitoring wells used for compliance with this General Order and MRP, as required under Water Code sections 13750.5 through 13755, and local agency requirements

## ADDITIONAL REQUIREMENTS

1. **Duty to Comply** – Any noncompliance with this General Order constitutes a violation of the Water Code, and is grounds for enforcement action, and/or termination of enrollment under this General Order.
2. **Corrective Action** – The Discharger must take all reasonable steps to minimize or correct any adverse impact to the environment resulting from noncompliance with this General Order, including accelerated or additional monitoring necessary to determine the nature and impact of the noncompliance.
3. **Responsibility for Monitoring and Maintenance** – Dischargers must be responsible for covering the costs associated with the activities necessary to maintain compliance with this General Order.
4. **Maintenance Period** – The maintenance period must continue until the Regional Water Board finds that all feedstocks, additives, amendments, compost (active, curing, or final product), wastewater, or other waste constituents or degradation products will not threaten waters of the state.
5. **Revision of Waste Discharge Requirements** – Enrollment under this General Order may be modified, revoked, reissued, or terminated for causes including, but not limited to, the following:
   a. Violation of any terms or conditions of this General Order,
   b. Obtaining this General Order by misrepresentation or failure to disclose relevant facts, or
   c. A change in any condition that requires a reduction or elimination of the authorized discharge.

   Filing a request by the Discharger for modification, revocation, re-issuance, or termination of this General Order or notification of planned changes or anticipated noncompliance does not stay any condition of this General Order.
6. **Change in Ownership** – This General Order is not transferable to any person except after notice to the Regional Water Board, CalRecycle, and the Local Enforcement Agency. The Discharger must submit a Change in Ownership Notification, pursuant to the Notification Requirements section of this General Order.
7. **Property Rights** – This General Order does not convey any property rights of any sort or any exclusive privileges. Requirements prescribed herein do not authorize commission of any act causing injury to persons or property, nor protect the Discharger from liability under federal, state, or local laws or regulations, nor create a vested right for the owner and operator to continue the regulated activity.

8. **Entry and Inspection** – Under authority of Water Code section 13267, the Discharger must allow the State Water Board and/or Regional Water Board, or an authorized representative, upon presentation of credentials and other documents as may be required by law to:
   a. Enter premises where a regulated facility or activity is located or conducted, or where records must be kept under specification of this General Order;
   b. Have access to copy, at reasonable times, any records that must be kept under specification of this General Order;
   c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or specified under this General Order;
   d. Sample or monitor for the purposes of determining compliance with this General Order, any substances or parameters at any location; and
   e. Photograph or video-record any structures, facilities, activities, or other conditions to determine compliance with this General Order.
9. **Repository for Waste Discharge Requirements** – A complete and correct copy of this General Order, the NOA, and any pertinent technical documents must be maintained at the local offices of the Discharger and must be available to facility personnel at all times.
10. **Severability** – Provisions of this General Order are severable, and if any provision of this General Order or application of any provision of this General Order to any circumstance is held invalid, application of such provisions to other circumstances and the remainder of this General Order must not be affected thereby.
11. **Effective Date** – This General Order becomes effective upon its adoption by the State Water Board.
12. **Penalties for Investigations, Monitoring, or Inspection Violations** – The State Water Board and Regional Water Boards reserve the right to take any enforcement action authorized by law for violations of any terms and conditions of this General Order.
13. **Civil Monetary Remedies** – Water Code section 13350 et seq. provides that any person who intentionally or negligently violates any conditions issued or amended by the Regional Water Board or State Water Board, is subject to administrative civil liability of up to $10 per gallon of waste discharged, or up to $5,000 per day of violation. The Superior Court may impose civil liability of up to $10,000 per day of violation or, if a cleanup and abatement order has been issued, up to $15,000 per day of violation.

14. **Other Regulations** – Dischargers enrolled under this General Order may be subject to additional federal, state, or local regulations.
15. **Requesting Judicial Review** – Any person aggrieved by this General Order may, not later than 30 days from the date of adoption, file a petition for a writ of mandate for judicial review. Petitions that are not received within 30 days of the State Water Board's adoption of the General Order will not be eligible for review by any court. (Wat. Code, § 13330 et seq.)
16. **Delegation of Authority** – By adoption of this General Order, the State Water Board delegates to the nine Regional Water Board Executive Officers, all powers and authority that may be delegated pursuant to Water Code section 13223. The State Water Board intends for the Executive Officers to make modifications or revisions in appropriate cases, to the maintenance and monitoring requirements contained within the MRP for Dischargers enrolled under this General Order; and to grant Dischargers enrollment or termination under this General Order and MRP pursuant to eligibility and termination criteria established in this General Order.

## CERTIFICATION

The undersigned, Clerk to the Board, does hereby certify that this general order with all attachments is a full, true, and correct copy of an order duly and regularly adopted at a meeting of the State Water Resources Control Board held on (begin insert) XXXXX XX, 2020 (end insert).

AYE:

NAY:

ABSENT:

ABSTAIN:

## ATTACHMENT A - DEFINITIONS

For the purposes of this General Order, the following terms, phrases, or abbreviations have a narrow scope of meaning, and are as follows:

**Active Compost** - Compost feedstock that is in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition or is releasing carbon dioxide at a rate of at least 15 milligrams per gram of active compost per day, or the equivalent of oxygen uptake. This high temperature on thermophilic phase may last from several days to several weeks.

**Additives** - Material mixed with feedstocks or active compost in order to adjust the moisture level, carbon to nitrogen ratio, or porosity to create a favorable condition. Additives include, but are not limited to, fertilizers and urea. Additives do not include septage, biosolids, or compost feedstock.

(begin delete)~~**Agricultural Composting** - The operation of composting conducted in agricultural settings where: (1) feedstocks consist of materials generated onsite by production of farm, ranch, agricultural, horticultural, silvicultural, floricultural, vermicultural, or viticultural products, for example, orchard and vineyard prunings, culls and crop residues, and spoiled or unsalvageable food commodities (but not including animal carcasses), and; (2) the resulting compost product is returned to that same agricultural site, or an agricultural site owned by the owner of the composting activity and applied at an agronomic rate. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually.~~**~~Agricultural Material~~** ~~- Consists of pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, aquacultures, silvicultural, floricultural, vermicultural, or viticultural products, including orchard and vineyard prunings, and crop residues. Agricultural material does not include manure.~~ (end delete)

**Amendments** - Materials added to stabilized compost or cured compost to provide attributes for certain compost products, such as product bulk, product nutrient value, product pH, and soils blend. Amendments do not include septage, biosolids, or compost feedstock.

**Anaerobic Digestate** - The solid portion of the material remaining after the anaerobic digestion of any combination of agricultural materials, biosolids, sewage sludge, food materials, green materials, manure, paper materials, or vegetative food materials. Dewatered digestate contains organic matter that may need to be further treated to stabilize it, usually through aerated composting.

**Animal Carcasses** - Refers to any whole or part (including, but may not be limited to the flesh, organs, blood, bones, and marrow) of a carcass of a bird, fish, or mammal, which cannot meet the definition of "food material."

**Background Water Quality** - The concentrations or measures of constituents or indicator parameters in water or soil that have not been affected by waste constituents from the area being monitored.

**Beneficial Uses** - Pursuant to division 7, section 13050, subdivision (f) of the Water Code. "Beneficial uses" of waters of the state that may be protected against degradation include, but are not limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation, and preservation and enhancement of fish, wildlife, and other aquatic resources or preserves.

**Best Management Practice** - A practice, or combination of practices, that is the most effective and feasible means of controlling degradation or pollution generated by nonpoint sources for the attainment of water quality objectives.

**Biosolids** - Sewage sludge that has been treated, tested, and meets:

1. The Ceiling Concentration Limits in Table 1 of 40 Code of Federal Regulations section 503.13;
2. The Class A or Class B pathogen control requirements in 40 Code of Federal Regulations part 503.32(a) or (b); and
3. One of the Vector Attraction Reduction requirements in 40 Code of Federal Regulations part 503.33(b) (1—8).

Exceptional Quality (EQ) biosolids – Biosolids meeting metals standards, Class A pathogen reduction standards, and one of the vector attraction reduction standards contained in 40 Code of Federal Regulations sections 503.13 (Table 3), section 503.32(a), and section 503.33(b) (1—8), respectively

**Brine** - Water saturated with or containing large amounts of common salt (sodium chloride), or a strong saline solution (e.g., calcium chloride).

**California Environmental Quality Act (CEQA)** - Refers to the statute promulgated in Public Resources Code, beginning with section 21000, and regulations promulgated in California Code of Regulations, title 14, chapter 3, beginning with section 15000, requiring state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

**CalRecycle** - The Department of Resources Recycling and Recovery (formerly the California Integrated Waste Management Board), which is the lead agency for implementing the state's municipal solid waste permit program that is deemed to be adequate by U.S. EPA under regulations published pursuant to sections 2002 and 4005 of the Resource Conservation and Recovery Act of 1976.

**Chipping and Grinding Facilities and Operations** - Facilities or operational areas that do not produce compost, but mechanically reduce the size or otherwise engage in the handling of "green material." Each load of "green material" must be removed from the site within 48-hours from receipt, unless the Discharger has received written permission from the Local Enforcement Agency allowing the "green material" to remain onsite for up to 7 days.

**Composting** - A controlled microbial degradation of organic wastes yielding a safe and nuisance-free product.

**Composting Conducted at a Publicly Owned Treatment Works** - Refers to the composting of treated biosolids at a publicly owned treatment works, currently operating pursuant to permit or waste discharge requirements issued by a Regional Water Board or the State Water Board.

**Composting Operation** - shall mean the areas at which operations are conducted, including the receiving area, pre-processing, processing, curing, storage areas, detention ponds, and other areas associated with production of compost, including storage areas for feedstocks, additives, and/or amendments.

**Constituent** - An element or compound which occurs in or is likely to be derived from waste handled by a composting operation.

**Constituent(s) of Concern** - Any waste constituent(s), reaction product(s), and hazardous constituent(s) that is reasonably expected to be in or derived from waste handled by the composting operation.

**Construction Quality Assurance** - A planned system of activities that provides assurance that the facility or component thereof, is constructed as specified in the approved design. As used in this General Order, the term includes "Construction Quality Control," a planned system of inspections that is used to directly monitor and control the quality of a construction project.

**Containment Structures** - Refers to any berm, ditch, working surface, detention pond, or other mechanism approved by the Regional Water Board at a Composting Operation designed, constructed, and maintained to limit feedstocks, additives, amendments, and/or compost (active, curing, or final product) from threatening to cause, causing, or contributing to conditions of contamination, pollution, or nuisance.

**Contamination** - Defined in section 13050, subdivision (k) of the Water Code.

**Curing Compost** - The final stage of the composting process that occurs after compost has undergone pathogen reduction, as defined in California Code of Regulations title 14, section 17868.3, and after most of the readily metabolized material has been decomposed and stabilized. This curing phase begins after an active compost pile endures a sustained drop in temperature as remaining materials continue

to decompose, but at a much slower rate. This helps to further decompose and stabilize potentially toxic organic acids and resistant compounds. The curing process helps bring compost to full maturity and can last several months.

**Day** - A calendar day unless otherwise specified.

**Depth to Groundwater** - The vertical distance measured, in feet, from the ground surface to the highest anticipated groundwater level.

**Detention Pond** - An excavated or diked area designed to capture and hold any wastewater.

**Discharge** - The accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of wastes into or on any land or water.

**Discharger** - Any person who discharges waste which could affect the quality of waters of the state and includes any person who owns a composting operation or who is responsible for the operation.

**Distance to Nearest Water Supply Well** - The horizontal distance measured, in feet, from the nearest edge of the composting operation to the center of the water supply well head.

**Distance to Nearest Surface Water** - Horizontal distance measured, in feet, from the nearest edge of the composting operation to the edge of the high-water mark for lakes and reservoirs, mean high tide line for tidally influenced water bodies, or the natural or levied bank for creeks and rivers.

**Electronic Deliverable Format** - Defined in California Code of Regulations, title 23, division 3, chapter 30, article 1, section 3891.

**Evapo-concentration** - The process by which the ratio of solute to water solvent is increased by the removal of the solvent and retention of the solute.

**Feedstocks** - Materials used in the production of compost. Feedstocks shall not be considered as either additives or amendments.

**Fertilizing Material** - Defined in division 7, section 14533 of the Food and Agriculture Code.

**Final Product** - The compost material that has completed the curing phase. Residual substances originally present in the compost pile are consumed after proper curing. The compost has been brought to maturity, and organic acids and resistant compounds have been substantially decomposed.

**Food Material** - Solid, and/or semi-solid materials resulting from the production or processing of food for animal or human consumption, but is no longer intended for such consumption, that is separated from the municipal solid waste stream. Food material includes, without limitation, food waste from food facilities (as defined in Health and

Safety Code, section 113789), food processing establishments (as defined in Health and Safety Code, section 111955), grocery stores, institutional cafeterias (such as prisons, schools, and hospitals), restaurants, and residential food scrap collection. Food material may include meat and materials incidental to a food scrap collection program. Food material shall not contain any substance included in the Prohibitions section of this General Order.

**Geocomposite Liner -** A manufactured material using geotextiles, geogrids, geonets, and/or geomembranes in laminated or composite form.

**Geomembrane -** Flexible materials in planar form manufactured to meet specific engineering purposes. Commonly, they are used as a barrier to waste solids and fluids. The term "geomembrane" is synonymous with "synthetic liner" and "flexible membrane liner".

**GeoTracker -** The State Water Board database as defined in California Code of Regulations, title 23, section 3891.

**Green Composting Waiver -** Refers to the "Conditional Waiver of Waste Discharge Requirements for Composting Operations." Adopted by most Regional Water Boards in 1996, this waiver covered the composting of green waste, some food processing waste, agricultural waste, and paper waste discharged to land with a volume in excess of 500 cubic yards.

**Green Material -** Any plant material that is separated at the point of generation and consists of, or contains, materials from plants, including leaves, clippings, cuttings, trimmings of grass, weeds, shrubbery, bushes, or trees, residential or community garden waste, and untreated wood waste. Green material does not include food material, biosolids, material processed from commingled collection, wood containing lead-based paint or wood preservative, mixed construction or mixed demolition debris.

**Groundwater -** Water below the ground surface that is at or above atmospheric pressure (i.e., perched, unconfined, or confined water).

**Groundwater Elevation -** The vertical distance measured, in feet, from mean sea level to the water table of the first encountered groundwater below the ground surface.

**Hydraulic conductivity -** The ability of natural and artificial materials to transmit fluid. For water, including aqueous solutions, the term is expressed as a measure of the rate of flow (e.g., cubic centimeters per second) one can expect through a unit-area (e.g., one square centimeter) cross section of the material under a unit hydraulic gradient (e.g., one centimeter of head loss per centimeter of travel through the material). The resulting numerical value is expressed in velocity units (e.g., centimeters per second).

**Leachate** - Any liquid formed by the drainage of liquids from, or percolation/flow of liquids through any feedstock, additive, amendment, or compost (active, curing, or final product) pile.

**Liquid Food Material** - Liquid materials resulting from the production or processing of food for animal or human consumption - but is no longer intended for such consumption - that is separated at the point of generation from the waste stream (e.g., cheese whey, brewery waste, etc.). Liquid food material shall not contain either: brines or any waste included in the Prohibitions section of this General Order.

**Liquid Wastes** - Waste materials which are not spadeable or in a physical state where the waste materials behave sufficiently like a solid to be moved by a spade at normal outdoor temperatures.

**Liner** - A material or combination of materials designed, constructed, and maintained to contain any wastewater feedstock, additive, amendment, or compost (active, curing, or final product) discharged to land.

**Local Enforcement Agencies (LEA)** - Agencies that are designated by the governing body of a county or city and, upon certification by CalRecycle, are empowered to implement delegated CalRecycle programs and locally designated activities.

**Lot Clearing for Fire Protection** - Refers to the storage of yard trimmings at a publicly designated site for the collection of lot clearing necessary for fire protection provided that the public agency designating the site has notified the fire protection agency.

**Manure** - (begin delete) ~~Accumulated excrement~~ (end delete) (begin insert) Excrement from animals (end insert) (e.g., cattle (begin delete) ~~manure~~ (end delete), chicken (begin delete) ~~manure~~ (end delete), pig (begin delete) ~~manure~~ (end delete)) which includes feces and urine and any bedding material, spilled feed, or soil that is mixed with feces or urine, (begin delete) ~~that~~ (end delete) (begin insert) and the accumulated material (end insert) does not exceed its moisture holding capacity. (begin insert) Manure does not include carcasses, whole or in part, in accordance with Prohibition 4.a. (end insert)

**Major Storm Event** - Is defined as a minimum of one inch of precipitation within 24 hours.

**Moisture Holding Capacity** - The amount of liquid which can be held against gravity by waste materials without generating free liquid.

**National Pollutant Discharge Elimination System (NPDES)** - Refers to the national program under Clean Water Act section 402 (33 U.S.C. § 1342), for regulation of discharges of pollutants from point sources to waters of the United States. Discharges are illegal unless authorized by a National Pollutant Discharge Elimination System permit.

**Nonhazardous Solid Waste** - Means all putrescible and nonputrescible solid, semi-solid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semi-solid wastes and other discarded waste (whether of solid or semi-solid consistency); provided that such wastes do not contain wastes which must be managed as hazardous wastes, or wastes which contain soluble pollutants in concentrations which exceed applicable water quality objectives, or could cause degradation of waters of the state (i.e., designated waste).

**Nuisance** - Defined in section 13050, subdivision (m) of the Water Code.

**Pad** - See definition for "working surface."

**Paper Material** - Nonhazardous paper and paper by-products (including paper, cardboard, tissue, and other products manufactured from vegetative fibers).

**Percolation test** - A method of testing water absorption of soil. The percolation test shall be conducted as follows or an approved alternative: a minimum of six percolation tests shall be required as follows:

1. Four holes shall be spaced uniformly throughout the operations pad area to a minimum of 24 inches deep; and
2. Two holes outside the perimeter of the detention pond nearest the deepest corner. The holes shall be dug a minimum of 24 inches below the deepest part of the pond.
3. Percolation testing shall be conducted in accordance with local codes and ordinances and performed under the direction of a Professional Geologist, Civil Engineer, or Registered Environmental Health Specialist.

**Pollution** - Defined in section 13050, subdivision (l) of the Water Code.

**Portable Document Format (PDF)** - Defined in California Code of Regulations, title 23, division 3, chapter 30, article 2, section 3891.

**Precipitation** - Is any condensate of atmospheric water vapor and includes hail, mist, rain, sleet, or snow.

**Publicly Owned Treatment Works (POTW)** - Is as defined in part 403, section 403.3(q) of 40 Code of Federal Regulations.

**Radioactive Material** - Defined in California Code of Regulations, title 17, section 30100, subdivision (q).

**Residentially co-collected or self-hauled food and green materials** - Food scraps, food soiled paper, and related items that are produced in a residential setting and are set out to be co-collected with green materials (i.e. yard trimmings) as part of a

municipal co-collection, or self-hauled program. No more than 10 percent of residential food material may be comingled with green materials.

**Regional Water Quality Control Board (Regional Water Board)** - All references to a Regional Water Board, include the Executive Officer, who may act for the Regional Water Board in carrying out this General Order. (Wat. Code, § 13050, subd. (b) & § 13223.)

**Residual** - The waste destined for disposal or recycling and removed from the site.

**Runoff** - Any precipitation, wastewater, or other liquids that drain from any part of a Composting Operation.

**Run-on** - Any precipitation, wastewater, or other liquids that drain onto any part of the Composting Operation.

**Separated at the Point of Generation** - Includes material separated from the waste stream by the generator of that material. It may also include material from a centralized facility as long as that material was kept separate from the waste stream prior to receipt by that facility and the material was not commingled with other waste during handling.

**Septage** - Any waste removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar wastewater handling device that has not passed through a municipal wastewater treatment facility.

**Sewage Sludge** - Any solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a municipal wastewater treatment facility. It includes solids removed or used during primary, secondary, or advanced wastewater treatment processes. It does not include grit or screening material generated during preliminary treatment of domestic sewage at a municipal wastewater treatment facility. Sewage sludge does not include biosolids that meet the criteria in Table 1 of 40 Code of Federal Regulations section 503.13.

**Significant Maintenance Activities** - Refers to, but may not be limited to, those activities which could alter existing surface drainage patterns, change the existing slope configuration, occur as a result of repairing surfaces or conveyances that were damaged, or result in the installation or destruction of any monitoring system at the composting operation (e.g., groundwater monitoring well, lysimeter, etc.).

**Sludge** - Refers to the solid, semi-solid, or liquid residue produced by water, wastewater, or sewage treatment processes.

**Source Separated** - Materials that have been separated or kept separate from the waste stream, at the point of generation, for the purpose of composting.

**Tier 1 Feedstocks -** The following are allowable Tier 1 feedstocks: (begin insert) vegetative (end insert) agricultural materials, green materials, paper materials, vegetative food materials, residentially co-collected food and green materials, anaerobic digestate derived from allowable Tier 1 feedstocks, and a combination of allowable Tier 1 feedstocks. (begin insert) Manure may be accepted as a feedstock at Tier 1 facilities if a groundwater protection monitoring plan is implemented. (end insert)

**Tier 2 Feedstocks -** The following are allowable Tier 2 feedstocks: food materials (non- vegetative); biosolids (Class A, B, and/or EQ) as defined by 40 Code of Federal Regulations part 503; manure; anaerobic digestate derived from allowable Tier 2 feedstocks; and a combination of allowable Tier 1 and Tier 2 feedstocks.

(begin insert) **Vegetative** (end insert) **Agricultural Material -** Consists of pre-consumer plant materials coming directly from lands used in the production of farm, agricultural, horticultural, aquacultures, silvicultural, floricultural, vermicultural, or viticultural products, including (begin insert), but not limited to, (end insert) orchard and vineyard prunings, (begin insert) grape pomace, (end insert) and crop residues. (begin insert) Vegetative agricultural (end insert) (begin delete) ~~Agricultural~~ (end delete) material does not include manure. (begin insert) With the exception of grape pomace or material generated during nut or grain hulling, shelling, and processing, vegetative agricultural material has not been processed except at its point of generation and has not been processed in a way that alters its essential character as a waste resulting from the production of food or fiber for human or animal consumption or use. (end insert)

**Vegetative Food Material -** Food material resulting from the production or processing of food for animal or human consumption, but is no longer intended for such consumption, that is derived solely from plants and is separated from the municipal solid waste stream. Vegetative food material may be processed or cooked but must otherwise remain in its essentially natural state and no salts, preservatives, fats, oils, or other adulterants have been added.

**Water Quality Control Plan (Basin Plan) -** Defined in division 7, section 13050, subdivision (j) of the Water Code.

**Wastewater -** Refers to leachate or any other liquid flowing from, or on the working surface.

**Water Boards -** Refers collectively to the State Water Resources Control Board and the nine Regional Water Quality Control Boards.

**Waste -** Defined in Water Code section 13050, subdivision (d).

**Water Quality Objectives -** Defined in Water Code section 13050, subdivision (h).

**Waters of the State -** Defined in Water Code section 13050, subdivision (e).

**Wet Season** - Defined as October 1 through April 30.

**Working Surface** - Any area at a Composting Operation used for the storage and/or treatment of feedstocks, additives, amendments, or compost (active, curing, or final product). The final product area may be excluded from the working surface hydraulic conductivity requirements under the following conditions:

- The area is isolated in a dedicated area away from the active and curing compost;
- The area is clearly marked as "final product" and
- The area is identified in the NOI and technical report and approved by the Regional Water Board.

**Within Vessel and Fully enclosed** - Refers to the action of receiving, composting, curing or storing any feedstock within a fully enclosed vessel or container (e.g., drum, silo, bin, bunker, tunnel, reactor, fabric-covered aerated static piles) where the organic material is covered on all sides and rests on a stable surface with environmental controls for managing all wastewaters.

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# ATTACHMENT B – MONITORING AND REPORTING PROGRAM

This Monitoring and Reporting Program (MRP) is issued pursuant to Water Code section 13267. The Discharger shall not implement any changes to this MRP unless and until a revised MRP is issued by the Regional Water Board.

This MRP includes monitoring, reporting and record keeping requirements for composting operations. Monitoring requirements include facility inspections, detention basin water quality, groundwater protection monitoring, and general sampling, as appropriate. Reporting includes requirements for the Annual Monitoring and Maintenance Report, notification of violations, and reporting of significant events. Record keeping describes the types of information and length of time that the Discharger must keep and maintain reports.

The Discharger owns and/or operates the composting operation subject to the NOA and this General Order. The reports are necessary to ensure that the Discharger complies with the NOA and the General Order. Pursuant to Water Code section 13267, the Discharger shall implement this MRP and shall submit monitoring reports described herein.

## A. ROUTINE MONITORING REQUIREMENTS

### 1. FACILITY INSPECTIONS

Any discharger enrolled under this General Order must inspect the composting operation in accordance with the following schedule and record, at a minimum, the observations described below:

a. Operations Areas – Perform quarterly inspections of the working surfaces, berms, ditches, facility perimeter, erosion control best management practices (BMPs), and any other operational surfaces (as specified in the NOI and/or a technical report and approved by the Regional Water Board). The Discharger shall include the following observations in the Annual Monitoring and Maintenance Report:

   1) Date and time of inspections, along with the name of the inspector;
   2) Evidence of areas of deficiency such as cracking or subsidence in the working surfaces;
   3) Evidence of ponding over the working surfaces and within ditches (show affected area on a map);
   4) Effectiveness of erosion control BMPs;
   5) Maintenance activities associated with, but not limited to, the working surfaces, berms, ditches, and erosion control BMPs;

6) Evidence of any water or wastewater leaving or entering the facility, estimated size of affected area, and estimated flow rate (show affected area on a map);
7) Integrity of drainage systems during the wet season; and
8) Photographs of observed and corrected deficiencies.

b. Wastewater Management System - Perform quarterly inspections of the wastewater management system and submit the following observations and records in the Annual Monitoring and Maintenance Report:
   1) Date and time of inspections along with name of inspector;
   2) The overall condition of the wastewater management system (i.e. pond liner, storage tank construction, municipal wastewater connection points);
   3) The available capacity within storage systems and the current volume of wastewater (gallons) or solids (cubic yards) contained;
   4) Presence of odors from the wastewater management system – characterization, source, and distance from source;
   5) Volume of wastewater treated and discharged, if applicable; and
   6) Volume of wastewater disposed at an off-site treatment system and name and location of the wastewater treatment facility, if applicable.

c. Annual Survey – Perform annual survey of the facility to confirm that all containment structures are prepared for the pending wet season. Dischargers shall conduct an annual survey prior to the anticipated wet season, but no later than August 31 and complete any necessary construction, maintenance, or repairs by **October 31**. The Discharger shall include the following in the Annual Monitoring and Maintenance Report:
   1) The observation date and time of the survey, along with the name of the inspector
   2) The type of deficiency/non-compliance observed;
   3) The cause for the deficiency/noncompliance;
   4) Map showing the area of deficiency/noncompliance;
   5) The corrective actions undertaken, or planned to resolve the deficiency/non- compliance, including the date and time of repairs;
   6) The measures undertaken by the Discharger to prevent the recurrence of the observed deficiency/noncompliance; and
   7) Photographs of the observed deficiencies/noncompliance with corresponding location on the map.

d. Major Storm Events - The Discharger shall inspect all precipitation, diversion, and drainage facilities for damage within **7 days** following major storm events. Necessary repairs shall be completed within **30 days** of the inspection. The Discharger shall report any damage and subsequent repairs including photographs of the problem and repairs in the Annual Monitoring and Maintenance Report.

2. DETENTION POND MONITORING (IF APPLICABLE)

a. Any Discharger enrolled under this General Order that has a detention pond to manage wastewater onsite must conduct monitoring of the wastewater within the detention pond quarterly when there is sufficient water and analyze the sample for the parameters listed Table B-1. (begin delete) These field parameters are measured during each sampling event. (end insert) Water sample analyses shall be conducted by a laboratory certified for such analyses by the State Water Board's Environmental Laboratory Accreditation Program. These laboratory analyses shall be conducted in accordance with 40 Code of Federal Regulations part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants) or other test methods approved by the Regional Water Board.

**Table B-1. Detention Pond Monitoring**

| Constituent | Units | Sample Frequency | Reporting |
|---|---|---|---|
| pH | standard units | Quarterly | Annually |
| Dissolved Oxygen | mg/L | Quarterly | Annually |
| Total Dissolved Solids | mg/L | Quarterly | Annually |
| Fixed Dissolved Solids | mg/L | Quarterly | Annually |
| Total Nitrogen | mg/L | Quarterly | Annually |
| Specific Conductance | µmhos/cm | Quarterly | Annually |

Detention Pond Leak Detection Monitoring (Tier 2 only) – The leak detection monitoring device (i.e. pan lysimeter) shall be checked monthly during the wet season for liquid. Upon detection of liquid in a previously dry monitoring device Discharger shall notify the Regional Water Board within **48 hours**; collect a sample and analyze the liquid for the constituents listed in Table B-1; remove the liquid from the device; and continue to monitor weekly. If liquid reappears, another sample must be collected and analyzed for the constituents in Table B-1. If the liquid is confirmed to be wastewater, the Discharger must submit a Response Action Plan within 30 days for review and approval by the Regional Water Board.

b. The results of any monitoring conducted more frequently than required at the locations specified in this General Order shall be reported to the Regional Water Board.

3. BIOSOLIDS MONITORING (IF APPLICABLE)

a. Any Discharger enrolled under this General Order that uses biosolids as a feedstock, shall present analytical results from a certified laboratory to show proof that the biosolids meet, at a minimum, with the ceiling concentrations listed in Table 1 of 40 Code of Federal Regulations part 503. Biosolids may be characterized by the entity that generates or otherwise processes the material. Use of analytical data prepared by such an entity may be accepted in lieu of the sampling listed below. The characterization shall contain a description of the sample procedures, the analytical report, and a statement by a responsible person that the characterization was performed in a way that accurately characterizes the quality of the biosolids (begin delete)~~. The statement shall be signed by, and shall contain,~~ (end delete) (begin insert) and includes (end insert) the certification language contained in the General Order under Reporting Requirements. U.S. EPA regularly reviews, and may revise, the limitations and requirements of 40 Code of Federal Regulations part 503 and should be reviewed for updates.

b. Any discharger enrolled under this General Order that uses biosolids as a feedstock and does not show results from a certified laboratory shall perform monitoring to characterize the material for the parameters listed in Table B-2. The characterization shall contain a description of the sample procedures, the analytical report, and a statement by a responsible person that the characterization was performed in a way that accurately characterizes the quality of the biosolids (begin delete). ~~The statement shall be signed by,~~ (end delete) and (begin delete) ~~shall contain~~ (end delete) (begin insert) includes (end insert) the certification language contained in the General Order under Reporting Requirements.

**Table B-2. Biosolids Monitoring**

| Constituent | Units | Sample Frequency | Reporting |
|---|---|---|---|
| Arsenic | mg/kg | Sample each delivery | Annually |
| Cadmium | mg/kg | Sample each delivery | Annually |
| Copper | mg/kg | Sample each delivery | Annually |
| Lead | mg/kg | Sample each delivery | Annually |
| Mercury | mg/kg | Sample each delivery | Annually |
| Molybdenum | mg/kg | Sample each delivery | Annually |

| Constituent | Units | Sample Frequency | Reporting |
|---|---|---|---|
| Nickel | mg/kg | Sample each delivery | Annually |
| Selenium | mg/kg | Sample each delivery | Annually |
| Zinc | mg/kg | Sample each delivery | Annually |

4. GROUNDWATER PROTECTION MONITORING (IF APPLICABLE)
   a. A Discharger that is required to perform groundwater monitoring (begin delete) ~~due to site conditions~~ (end delete) shall perform the monitoring shown in Table B-3. Sample analysis shall be conducted by a laboratory certified by the State Water Board's Environmental Laboratory Accreditation Program. These laboratory analyses shall be conducted in accordance with 40 Code of Federal Regulations part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants) or other test methods approved by the Regional Water Board.
   b. Discharger is required to implement the sampling and analysis program detailed in the approved Groundwater Protection Monitoring Plan submitted with the NOI as part of the accompanying technical report described in Attachment D, which is hereby incorporated by reference as part of this MRP.
   c. The results of any monitoring conducted more frequently than required at the locations specified in this General Order shall be reported to the Regional Water Board.

**Table B-3. Groundwater Monitoring**

| Constituent | Units | Sample Frequency | Reporting Frequency |
|---|---|---|---|
| Groundwater Elevation (begin delete) [a] (end delete) | 0.01 Feet | Quarterly | Annually |
| Depth to Groundwater | 0.01 Feet | Quarterly | Annually |
| Gradient | Feet/Feet | Quarterly | Annually |
| Gradient Direction | Degrees | Quarterly | Annually |
| pH | Std. Units | Quarterly | Annually |
| Total Dissolved Solids | mg/L | Quarterly | Annually |
| Nitrate as Nitrogen | mg/L | Quarterly | Annually |
| Sodium | mg/L | Quarterly | Annually |
| Chloride | mg/L | Quarterly | Annually |
| Total Coliform Organisms (begin delete) [b] (end delete) | MPN/100 mL | Quarterly | Annually |

(begin insert) Notes for Table B-3:

- Groundwater elevation shall be based on depth to water using a surveyed measuring point elevation on the well and a surveyed reference elevation.
- Total Coliform Organisms shall be measured using a minimum of 15 tubes, or three dilutions. (end insert)

5. GENERAL SAMPLING REQUIREMENTS

a. The Discharger shall use clean sample containers and sample handling, storage, and preservation methods that are accepted or recommended by the selected analytical laboratory or, as appropriate, in accordance with approved U.S. EPA analytical methods.

b. All samples collected shall be representative of the volume and nature of the material being sampled.

c. All sample containers shall be labeled, and records maintained to show the time and date of collection as well as the person collecting the sample and the sample location.

d. All samples collected for laboratory analyses shall be preserved and submitted to the laboratory within the required holding time appropriate for the analytical method used and the constituents analyzed.

e. All samples submitted to a laboratory for analyses shall be identified in a properly completed and signed Chain of Custody form.

f. Field instruments may be used provided:

   1) The operator is trained in the proper use and maintenance of the instruments;

   2) The instruments are field calibrated prior to each monitoring event; and

   3) Instruments are serviced and/or calibrated by the manufacturer at the recommended frequency.

g. Analytical results falling between the method detection limit (MDL) and the practical quantitation limit (PQL) shall be reported as "estimated," be accompanied by documents reporting both the MDL and PQL values for that analytical run, and be flagged appropriately (i.e., "J-flagged").

h. MDLs and PQLs shall be derived by the laboratory for each analytical procedure in accordance with the State Water Board's Environmental Laboratory Accreditation Program. In a relatively interference-free laboratory, derived MDLs and PQLs are expected to agree closely with published U.S. EPA MDLs and PQLs.

i. If the laboratory suspects that, due to a change in matrix or other effects, the MDL or PQL for a particular analytical run differs significantly from historic MDL or PQL values, results shall be flagged and reported in the quality assurance/quality control (QA/QC) report.

j. The MDL shall always be calculated such that it represents the lowest achievable concentration associated with a 99 percent reliability of non-zero results.

k. The PQL shall represent the lowest concentration at which a numerical value can be assigned with reasonable certainty.

l. All quality assurance/quality control data shall be reported, along with sample results to which it applies. This information shall include method, equipment, analytical detection, quantitation limits, recovery rates, an explanation for any recovery rate that is outside method specifications, results of equipment and method blanks, results of matrix spikes and surrogate samples, and the frequency of quality control analysis. Sample results shall be reported unadjusted for blank results or spike recovery. In cases where contaminants are detected in the quality assurance/quality control samples (i.e., field, trip, or laboratory blanks), the accompanying sample results shall be appropriately flagged.

## B. REPORTING REQUIREMENTS

### 1. ANNUAL MONITORING AND MAINTENANCE REPORT

The Annual Monitoring and Maintenance Report shall be submitted to the Regional Water Board by **April 1st** each year. The Discharger must submit this report in a searchable, electronic format (i.e., Portable Document Format (PDF) and Electronic Deliverable Format (EDF) via the State Water Board's Internet GeoTracker system <http://geotracker.waterboards.ca.gov/> as required by this General Order. The report must include the following:

a. A transmittal letter explaining the essential points shall accompany each report. At a minimum, the transmittal letter shall identify any violations found since the last report was submitted and a description of the actions taken or planned for correcting those violations, including any references to previously submitted time schedules. If no violations have occurred since the last submittal, this shall be stated in the transmittal letter;

b. A map or aerial photograph showing the locations of observation stations and monitoring points;

c. Tabular and graphical summaries of all water quality data collected during the year, including wastewater monitoring if applicable; and

d. All historical monitoring data collected during the previous 5 years, and for which there are detectable results, including data for the previous year, shall be submitted in tabular form and in a digital file format.

e. Monitoring information must include at a minimum:

1) The date, identity of sample, monitoring point from which the sample was collected, and time of sampling or measurement;

2) The name of the individual(s) who performed the sampling or measurements;
3) Date and time that analyses were started and completed;
4) The analytical techniques or method used, including method of preserving the sample and the identity and volume of reagents used; and
5) Field instrument calibration logs.

f. Copy of the complete laboratory analytical report(s), signed by the laboratory director or project manager, and at a minimum contain:
   1) Complete sample analytical reports;
   2) Complete laboratory QA/QC reports;
   3) A discussion of the sample and QA/QC data;
   4) A properly completed "chain of custody" from the analyzed samples; and
   5) A transmittal letter stating whether or not all of the analytical work was supervised by the director of the laboratory, and contain the following statement:
      *"All analyses were conducted at a laboratory certified for such analyses by the State Water Board's Environmental Laboratory Accreditation Program in accordance with current U.S. EPA procedures."*

g. Results and discussion from the annual survey;

h. Results and discussion of the groundwater protection monitoring, if applicable, including statistical analysis as submitted in the NOI and accompanying technical report, and approved by the Regional Water Board;

i. A summary of completion of inspections and maintenance of the working surfaces, berms, ditches, erosion control BMPs or other containment structures;

j. An evaluation of completion of inspections and maintenance on the effectiveness of the wastewater handling facilities including results of the annual testing of wastewater, capacity issues, nuisance conditions, and system problems;

k. A comprehensive discussion of the compliance record, and the result of any corrective actions taken or planned which may be needed to bring the Discharger into full compliance with this General Order; and

l. A discussion of any data gaps and potential deficiencies/redundancies in the monitoring system or reporting program.

2. NOTIFICATION OF VIOLATIONS

If the Discharger determines there has been a violation of the requirements specified in either the General Order or this MRP, the Discharger must notify the Regional Water Board office by telephone or email, within **48 hours**, once the Discharger has knowledge of the violation. The notification must include a description of the noncompliance and its cause, the period of noncompliance (dates and times); and if the noncompliance has not been corrected, the anticipated time the noncompliance is expected to continue. The notification must also include steps taken or planned to reduce, eliminate, or prevent recurrence of the noncompliance.

The Regional Water Board may, depending on the severity of the violation, require the Discharger to submit a separate technical report regarding the violation within **10 working days** of the initial notification.

3. PRIORITY REPORTING OF SIGNIFICANT EVENTS

The Discharger shall report any noncompliance that endangers human health or the environment within **24 hours** of becoming aware of its occurrence. The incident shall be reported to the Regional Water Board, the local environmental health department, and to the California Governor's Office of Emergency Services (CalOES). During non-business hours, the Discharger shall leave a message on the Regional Water Board's voice mail. The message shall include the time, date, place, and nature of the noncompliance, name, and number of the reporting person, and shall be recorded in writing by the Discharger. CalOES is operational 24 hours a day. A written report shall be submitted to the Regional Water Board office within **10 working days** of the Discharger becoming aware of the incident. The report shall contain a description of the noncompliance, causes, duration, and the actual or anticipated time for achieving compliance. The report shall include complete details of steps that the Discharger has taken or intends to take to prevent recurrence. All intentional or accidental spills shall be reported as required by this provision. The written submission shall contain:

a. The approximate date, time, and location of the noncompliance including a description of the ultimate destination of any unauthorized discharge and the flow path of such discharge to a receiving water body;

b. A description of the noncompliance and its cause;

c. The flow rate, volume, and duration of any discharge involved in the noncompliance;

d. The amount of precipitation (in inches) the day of any discharge and for each of the seven days preceding the discharge;

e. A description (location, date and time collected, field measurements of pH, temperature, dissolved oxygen and electrical conductivity, sample

identification, date submitted to laboratory, and analyses requested) of noncompliance discharge samples and/or surface water samples taken;

f. The period of noncompliance, including dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue;

g. A time schedule and a plan to implement corrective actions necessary to prevent the recurrence of such noncompliance; and

h. The laboratory analyses of the noncompliance discharge sample and/or upstream and downstream surface water samples shall be submitted to the Regional Water Board office within **45 days** of the discharge.

## C. RECORD-KEEPING REQUIREMENTS

The Discharger must retain records of all monitoring information, including all calibration and maintenance records, and copies of all reports required by this MRP, for a minimum of **5 years** from the date of sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding the discharge or when requested by the Regional Water Board. Records of monitoring information must include at a minimum:

a. The date, identity of sample, monitoring point from which the sample was collected, and time of sampling or measurement;

b. The name of the individual(s) who performed the sampling or measurements;

c. Training logs and records;

d. Date and time that analyses were started and completed;

e. The analytical techniques or method used, including method of preserving the sample and the identity and volume of reagents used;

f. Calculation of results;

g. Results of analyses performed, and method used (as proposed in an NOI and accompanying technical report, and approved by the Regional Water Board) for calculating the concentration limits for each naturally occurring constituents, based on background water quality monitoring data;

h. Results of analyses and the MDL for each non-naturally occurring constituent;

i. Laboratory quality assurance results (e.g., percent recovery, response factor, etc.); and

j. Chain of Custody forms.

Ordered by:_____ (Regional Water Board Executive Officer)

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## ATTACHMENT C – NOTICE OF INTENT

General Waste Discharge Requirements for Commercial Composting Operations

Order WQ 2019-XXXX-DWQ

### DISCHARGER INFORMATION

Owner Name: _____

Street Address: _____

City/Locale: _____

County: _____

State/Zip: _____

Telephone Number: _____

Facsimile Number: _____

Email Address:

_____

Owner Type (select one): _____

- ☐ Individual
- ☐ Corporation
- ☐ Partnership
- ☐ Other (please specify): _____

OPERATOR INFORMATION IF DIFFERENT FROM OWNER INFORMATION

Operator Name: _____

Mailing Address: _____

City/Locale: _____

County: _____

State/Zip: _____

Telephone Number: _____

Facsimile Number: _____

Email Address:

_____

### COMPOSTING OPERATION INFORMATION

Compost Facility Name:

_____

Street Address:

_____

City/Locale: _____

County: _____

State/Zip: _____

Telephone Number: _____

Type (check one): _____

- ☐ Existing Composting Operation
- ☐ New Composting Operation

Facility Acreage (acres): _____

Total Facility Capacity (cubic yards): _____

Average Weekly Throughput (cubic yards per week): _____

Assessor Parcel Number(s): _____

Latitude: _____

Longitude: _____

Regional Water Board Address:

_____

### REASONS FOR FILING

- ☐ New Discharge
- ☐ Existing Discharge
- ☐ Expansion or Change in Operations
- ☐ Changes in Ownership/Operator
- ☐ Other: _____

## STORMWATER PERMIT

Is there an Industrial Storm Water Permit for this facility?

☐ Yes

☐ No

If yes, WDID Number: _____

Related to storm water, have you received a "No Exposure Certification", "Notice of Termination", or "Notice of Exemption" for this facility?

☐ Yes

☐ No

If yes, please provide a copy.

The Notice of Intent for coverage under the Industrial Storm Water Permit may be obtained over the internet at the Industrial Stormwater Program webpage: http://www.waterboards.ca.gov/water_issues/programs/stormwater/industrial.shtml

## OTHER PERMITS

Has another agency issued permits or other entitlements (e.g., solid waste facility permit, notification permit, conditional use permit, building permits, air permits) for the unit?

☐ Yes

☐ No

For each permit or entitlement, list the type, issuing agency, and date of issuance:

_____

_____

_____

## CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Has a CEQA determination been made by an agency?

☐ Yes

☐ No

Name of Agency:

_____

Type and Date of Determination:

_____

State Clearinghouse Number:

_____

## PROCESS

Allowable Materials (check all that apply, and specify the quantity onsite at any time):

☐ (begin insert) vegetative (end insert) agricultural materials: _____

☐ biosolids (Class A, B, or EQ): _____

☐ green materials: _____

☐ paper materials: _____

☐ residentially co-collected or self-hauled food and green materials: _____

☐ anaerobic digestate: _____

☐ food material (non-vegetative): _____

☐ manure: _____

☐ vegetative food material: _____

☐ (begin insert) other (end insert):

_____

Current Processing Capacity (cubic yards):

_____

Months during which compostable materials will be on-site: _____

Additives/Amendments and maximum dry weight percentage used (list):

_____

_____

_____

_____

## SITE CONDITIONS

Anticipated highest groundwater elevation (feet mean sea level): _____

Average ground surface material percolation rate (minutes per inch) or attach results of percolation testing: _____

Annual average precipitation (inches per year):

_____

Distance to nearest water supply well (feet):

_____

Closest surface water and distance (name, feet):

_____

## DESIGN SPECIFICATION TIERS (check one)

- ☐ Tier 1
- ☐ (begin insert) Tier 1 (monitoring) (end insert)
- ☐ Tier 2
- ☐ Tier 2 (monitoring)

If the box for (begin insert) Tier 1 (monitoring) or (end insert) Tier 2 (monitoring) has been marked, provide the proposed Groundwater Protection Monitoring Plan with the Technical Report.

## TECHNICAL REPORT

Provide a complete technical report with all the information required in Attachment D of this General Order.

## FILING FEE

Pursuant to California Water Code section 13260 et seq., Dischargers enrolled under this General Order are required to pay an annual fee, as determined by the State Water Resources Control Board. The filing fee accompanying this NOI is the first year's annual fee. The annual fee is based on the threat to water quality and complexity of the discharge in accordance with California Code of Regulations, title 23, section 2200. Dischargers enrolled under this General Order will be assigned a threat to water quality and complexity rating as described in the General Order and will be assessed the corresponding fee, plus any applicable surcharges. The NOI is to be accompanied by a check, made out to the State Water Resources Control Board for the payment of the filing fee.

## CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Signature (Owner/Authorized Representative):

_____

Date: _____

Printed name: _____

Title: _____

Telephone Number: _____

Email Address:

_____

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## ATTACHMENT D – TECHNICAL REPORT REQUIREMENTS

The technical report required as part of the Notice of Intent (NOI) to comply with the terms of this General Order must be organized such that each item listed below is addressed in the same format, including the numbering scheme. The entire General Order should be thoroughly reviewed for its requirements prior to preparation of this technical report. The minimum information needed to provide a complete review of your application by the appropriate Regional Water Board is listed below. This list may not reference all information needed for every composting operation.

The Business and Professions Code sections 6735, 7835, and 7835.1 require that engineering and geologic evaluations and judgments be performed by or under the direction of licensed professionals. Any plan or report submitted in compliance with the requirements of this General Order, which requires technical interpretation, or proposes either a design, or a design change that might affect the composting operation's containment features, detention ponds, or monitoring systems must be prepared by, or under the direction of, appropriately licensed professionals (e.g., registered civil engineer, professional geologist, or other registered certified specialty geologist) by the State of California. In addition, the licensee must sign and provide his or her registration number, and/or stamp the submitted plan or report.

### A. GENERAL INFORMATION

1. Property owner's contact information including business name, main point of contact, address, telephone number, facsimile number, email address, and type of ownership (e.g., individual, corporation, etc.).
2. Operator's contact information including business name, main point of contact, address, telephone number, facsimile number, and email address.
3. Information including name, address, telephone number, facsimile number, and email address where legal notices may be served (if different than above).
4. Legal business name and location of composting operation. Use the most accurate location, which may include address, nearest town, cross streets, and latitude and longitude in accordance with the online document, "GeoTracker's Survey XYZ, Well Data, and Site Map Guidelines & Restrictions." <http://www.waterboards.ca.gov/ust/electronic_submittal/docs/geotrackersurvey_xyz_4_14_05.pdf>
5. Description of the Facility including:
    a. Assessor's Parcel Number(s);
    b. Legal description including Section, Township, and Range;
    c. Total Operational Footprint (acres) including ancillary activities;

d. Permitted Operational Capacity expressed in cubic yards of all materials received, processed, and stored on site at any given time;
e. Land uses within one mile from the perimeter of the operation; and
f. Description of water supply.

6. Provide a detailed site map showing the following:
   a. Location and size (in acres) of the working surface used for the storage of incoming feedstocks, additives, and amendments (receiving area);
   b. Location and size (in acres) of the working surface used for active and curing composting;
   c. Location and size (in acres) of the working surface used for the storage of final product;
   d. Drainage pattern;
   e. Berms and ditches for the conveyance of wastewaters;
   f. Location, size (in acres), and capacity (in acre feet) of all detention ponds, if applicable;
   g. Location of all sampling points for the monitoring of wastewater contained within ponds pursuant to the requirements of the General Order, if applicable;
   h. Location of all sampling points for the monitoring of storm water runoff under the Industrial General Storm Water Permit, if applicable; and
   i. Location of any groundwater monitoring wells and water supply wells within and/or near the property boundary.
7. Provide background information on the composting operation including history and a description of methods and operation used including the following:
   a. Describe the feedstock types, volumes, sources, and suppliers.
   b. Describe the additives used, sources, suppliers, and the maximum dry weight percentage used in the active composting process.
   c. Describe the amendments used, sources and suppliers in the final product.
   d. Describe the method of composting (e.g., windrow, static, forced air, mechanical).
   e. Provide process flow diagram showing movement of the material from received to final product. Include average amount of time the material remains in each part of the process.
   f. Describe how residuals are removed from the feedstocks managed and/or disposed.

## B. SITE CONDITION INFORMATION

1. Climatology — Calculate required climatologic values from measurements made at a nearby climatologically similar station and provide the source data from which such values were calculated, together with the name, location, and period of record of the measuring station.
   a. Maximum, minimum, and average annual precipitation in inches/year;
   b. Mean evaporation in inches/year;
   c. 25-year, 24-hour design storm event.
2. Geology:
   a. Map and Cross Sections — A comprehensive geologic map and geologic cross sections showing lithology and structural features.
   b. Materials — A description of natural geologic materials in and underlying the location of the operations, including identification of lithology, distribution and dimension features, physical characteristics, special physical or chemical features (i.e., alteration other than weathering), susceptibility to natural surface/near-surface processes, and all other pertinent lithologic data, all in accordance with current industry practices.
3. Hydrogeology, including:
   a. General – An evaluation of water bearing characteristics of natural geologic materials identified under Geology above, including hydraulic conductivity and delineation of groundwater zones.
   b. Hydraulic Conductivity – An evaluation of the in-place hydraulic conductivity of soils immediately under the operation. For Tier 1 facilities, this would be substituted by the soil percolation test. This evaluation includes:
      1) Hydraulic conductivity in tabular form, for selected locations within the boundary of the operations;
      2) A map of the operations showing test locations; and
      3) An evaluation of the test procedures and rationale used to obtain the data.
   c. Groundwater Flow Direction and Depth – an evaluation of the groundwater flow velocity and direction(s) within the uppermost groundwater zone and the following conditions:
      1) Maximum and average depth to first encountered groundwater below the native ground surface (in feet) and identify the source of the information; and

2) Maximum and average groundwater elevation of first encountered groundwater (in feet) relative to mean sea level.

4. Discuss the location and distance (in feet) to the nearest water supply wells (e.g., municipal supply, domestic supply, agricultural wells) from the nearest property boundary of the operation.
5. Discuss whether the operation is located within a 100-year flood plain based on the Federal Emergency Management Agency's (FEMA) designation and any design features to prevent inundation of the feedstocks, additives, amendments, compost (active, curing, or final product), or detention ponds. Include a reference to the appropriate FEMA Flood Hazard Map. Operations located within a 100-year floodplain may be subject to state and/or local land use restrictions and permits.
6. Identify all nearby surface water bodies, including streams, ditches, canals, and other drainage courses. Provide distances from the nearest property boundary of the operation to these areas on a map.

## C. DESIGN INFORMATION

1. Provide the current and/or proposed design of all working surfaces, berms, and conveyance ditches for the storage and/or treatment of feedstocks, additives, amendments, and compost (active, curing, or final product), along with information demonstrating that these containment structures comply with appropriate design specifications of this General Order. Submit for each operational area detailed preliminary and/or (if existing, or later upon completion) as-built plans, specifications, and descriptions for all working surfaces or other containment structures and drainage/conveyance systems. In addition, the report shall contain a description of, and location data for, ancillary facilities including roads, waste handling areas, detention ponds, buildings, and equipment cleaning facilities.
2. Provide a Water and Wastewater Management Plan describing how water and wastewaters will be managed in accordance with this General Order. Information must include a description of and/or plan illustrating all precipitation controls, containment structures, (i.e., conveyance systems for wastewater and detention ponds), best management practices, and contingency plan including:
   a. A wastewater conveyance system for controlling run-on and runoff from the working surface.
   b. A description of how water and wastewater is obtained and used in the compost process.
   c. A description of how the operation collects and manages wastewater. Information may include, but is not limited to, quantity that is reused

back into the process, description of wastewater treatment systems, other water quality permits, and best management practices (i.e. covering materials) that reduce the production of wastewater.

d. If using a detention pond, provide a water balance demonstrating compliance with the Design, Construction and Operation Requirements section of this General Order.

## D. OPERATIONS AND MONITORING INFORMATION

1. Include a proposal for an annual survey of the operation prior to the rainy season to assure that the site has been graded and prepared for the rainy season to eliminate and minimize erosion and ponding, in compliance with the requirements of this General Order.
2. Describe the inspection and maintenance program that will be undertaken regularly during composting operations, such as inspection of the containment structures for evidence of leachate, ponding, or surface failures such as cracking, spilling, or subsidence, in compliance with the specifications of this General Order.
3. Describe the means by which the composting operation will be conducted in a manner that does not cause, threaten to cause, or contribute to conditions of contamination, pollution, or nuisance.
4. Provide a description of the operations during periods of wet weather to ensure integrity of the containment systems.
5. For Dischargers proposing groundwater protection monitoring in lieu of the design specifications, include a Groundwater Protection Monitoring Plan for establishing, operating, and monitoring to verify groundwater has not been impacted by the composting operation. Include rationale for the type of monitoring, monitoring frequency, spatial distribution of monitoring points, selection of monitoring equipment, construction specifications, procedures for sampling, analysis of the data, and data evaluation. This plan must include the following:
   a. Map – a map showing the locations of the proposed monitoring system;
   b. Plans and Specifications – drawings and data showing construction details of the proposed monitoring system.
   c. Inspection Procedures – construction quality assurance plan to ensure the system will be constructed per approved plans.

d. Sampling and Analysis – the plan shall include consistent sampling and analytical procedures that are designed to ensure that monitoring results provide a reliable indication of water quality at all monitoring points. At a minimum, the plan shall include a detailed description of the procedures and techniques for:
   1) Sample collection (i.e. container types), sampling equipment (i.e. field instruments, pumps, bailers, etc.), equipment calibration, and decontamination of sampling equipment;
   2) Sample preservation and shipment;
   3) Analytical procedures;
   4) Chain of custody control; and
   5) QA/QC procedures.

e. Proposed Data Analysis Method – describe the methods that will be used in evaluating protection of water quality. The specifications for each data analysis method shall include a list of constituents of concern that will be monitored and a detailed description of the criteria to be used for determining "measurably significant" evidence of any release from the operation and for determining compliance.

## E. SITE CLOSURE INFORMATION

The technical report must include a plan for site closure activities upon completion of operations under this General Order to protect public health, safety, and the environment. The plan must describe how the site will be restored in compliance with the Site Closure Requirements section of this General Order.

## F. COMPLIANCE SCHEDULE (EXISTING FACILITIES)

The technical report shall include a proposed schedule for achieving compliance with this General Order. Proposed schedules for implementation of the identified collection, control, and monitoring practices must be as soon as practicable, supported with appropriate technical or economic justification and in no case may the schedule exceed **six years** from the date of the NOI. The Regional Water Board may modify the schedules based on evidence that meeting the compliance date is technically or economically infeasible.

(begin insert) **ATTACHMENT E – NOTICE OF TERMINATION**

Dischargers with Notice of Intent (NOI) request termination of coverage under the General Waste Discharge Requirements for Composting Operations (General Order) when either; (a) the operation of the facility has been transferred to another entity, (b) the facility has ceased operations and completed closure activities, (c) the facility's operations have changed and are now subject to different requirements of the General Order, or (d) the facility's operations have changed and are no longer subject to the General Order. Until a valid Notice of Termination is processed by the Regional Water Quality Control Board, the Discharger remains responsible for compliance with the General Order and payment of accrued annual fees. A Notice of Termination can only be certified by the duly authorized representative for the facility.

## DISCHARGER INFORMATION

Owner Name: _____

Street Address:

_____

City/Locale: _____

County: _____

State/Zip: _____

Telephone Number: _____

Facsimile Number: _____

Email Address:

_____

Owner Type (select one): _____

1. Individual
2. Corporation
3. Partnership
4. Other (please specify):

Operator Information (if different)

Operator Name: _____

Mailing Address:

_____

City/Locale: _____

County: _____

State/Zip: _____

Telephone Number: _____

Facsimile Number: _____

Email Address:

_____

## COMPOSTING OPERATION INFORMATION

Compost Facility Name:

_____

Street Address:

_____

City/Locale: _____

County: _____

Zip: _____

Telephone Number: _____

## REASON FOR TERMINATION

Please select one below: _____

A. The facility has ceased operations and completed closure activities;

B. Operations are subject to different requirements of the General Order;

C. Facility operations have been transferred to another entity; or

D. The operations are no longer subject to the General Order.

## CERTIFICATION

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Signature (Owner or Authorized Representative):

_____

Date: _____

Printed name: _____

Title: _____

Telephone Number: _____

Email Address: _____ (end insert)

# Agenda Item VII

# SOLID WASTE REGULATORY UPDATES

RCRC

RURAL COUNTY REPRESENTATIVES
OF CALIFORNIA

October 18, 2019

Ms. Ashlee Yee
Materials Management and Local Assistance Division
California Department of Resources Recycling and Recovery
P.O. Box 4025
Sacramento, CA 95812

Transmittal Via E-mail: SLCP.Organics@calrecycle.ca.gov

**RE: Comments on the Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions, Proposed Regulation Text Second Formal Draft**

Dear Ms. Yee:

On behalf of the Rural County Representatives of California (RCRC), I am writing to express our appreciation for the opportunity to provide input into the development of Senate Bill 1383 (Lara, 2016) regulations for organics diversion from our landfills, Short-Lived Climate Pollutants (SLCP): Organic Waste Reductions Proposed Regulation Text (Proposed SLCP Regulations), Third Formal Draft dated October 2, 2019. RCRC is an association of thirty-seven rural California counties, and the RCRC Board of Directors is comprised of an elected supervisor from each of those member counties.

In addition, twenty-four member counties have formed the Rural Counties' Environmental Services Joint Powers Authority (ESJPA) to provide assistance to solid waste managers in rural counties. These solid waste managers have been charged with ensuring that their respective counties meet state-imposed requirements to reduce waste being disposed in landfills and increase recycling/re-use efforts for certain products. Our counties' solid waste managers are dedicated to providing meaningful, environmentally conscious, and cost-effective solid waste services to their residents and businesses.

RCRC would again like to thank CalRecycle for the extensive outreach to stakeholders during the informal development of the Proposed SLCP Regulations and during the formal process. This third formal draft reflects the continued thoughtful consideration that CalRecycle gave to stakeholder comments, as the changes are a direct response to public concerns. While our previous unaddressed concerns included in our letters dated March 2 and 12, 1019 and July 17, 2019 (incorporated herein by reference) are part of the rulemaking record and remain relevant issues to our counties, we will limit our comments to the new proposed changes contained in the third draft.

1215 K Street, Suite 1650, Sacramento, CA 95814 | www.rcrcnet.org | 916.447.4806 | Fax: 916.448.3154

This letter provides a summary of key comments and issues and includes an attachment with more specific comments dealing with the regulatory language (Attachment A).

## Definitions

*Containers*

Allowing either the lid or body of the container to designate the materials to be collected in the containers provides economical flexibility. However, when the lid designates the materials to be collected, the body should be limited to gray or black. For example, in the definitions, (5) "Blue Container," having a blue lid with any color container, such as a green body could cause inconsistent messaging and confusion.

## Organic Waste Collection Services

*Waivers and Exemptions*

Most important to our member counties is the inclusion of various provisions for waivers and exemptions to the organic waste collection requirements. The Proposed SLCP Regulations include a delay of implementation of the residential organic collection service to the same 19 "rural jurisdictions" (counties with a population of less than 70,000) that received a five-year delay from the requirements of Assembly Bill 1826 (Chesbro, 2014), Mandatory Commercial Organics Recycling (MORe), section 42649.82 of the Public Resources Code (PRC). In this draft of the regulations, the residential organic waste collection requirement delay has been extended two years, from January 1, 2025 until December 31, 2026. This additional two-year extension is greatly appreciated for those rural jurisdictions.

However, RCRC still maintains that "rural jurisdictions" will need additional time to phase in the MORe requirements before the additional mandates from these regulations take effect. Counties already subject to MORe began phasing in the commercial organic collection requirements in 2016 through 2019, and will begin with the residential component in 2022, a six-year span. We recommend the "rural jurisdictions" that were granted the exemption provided in PRC section 42649.82 be afforded a five-year delay following the initiation of the requirements of PRC Chapter 12.9.

The Proposed SLCP Regulations also include a provision for rural areas of counties with populations of 70,000 or greater to apply to CalRecycle for up to a five-year waiver for census tracts located in unincorporated areas of the county that have a population density of less than 75 persons per square mile or incorporated cities with a total population of less than 7,500 people and less than 5,000 tons of solid waste as reported in 2014. We were disappointed that this draft did not include a provision to consider the "edge effect" of large census tracts and allow a block or block group to be included in an adjacent high-density tract and subtracted from the lower density tract so that it might qualify as a low population waiver. We again request that block groups within the census tract be allowed to be exempt if those block groups meet the same criteria of population density of less than 75 persons per square mile.

While RCRC is most appreciative of the proposed waivers and exemptions, we still believe there needs to be a provision to allow a local jurisdiction to request a waiver from CalRecycle for a proposed area based upon the local circumstances and conditions. Local jurisdictions need to have the ability to appeal to CalRecycle when lack of easily accessible organics facilities, the greenhouse gas impact tradeoffs, or other unique situations, such as problem bear populations below the 4,500' elevation, occur that are beyond the reasonable ability of the jurisdiction to manage.

## Education and Outreach

RCRC appreciates that this draft of the Proposed SLCP Regulations utilizes the current standards of Government Code Section 7295, so that the determination of when non-English materials are appropriate is left to the discretion of the local agency.

## Capacity Planning

RCRC appreciates that the "rural jurisdictions" will benefit from a five-year delay of the first organic waste capacity planning period report due August 1, 2024. These jurisdictions will be required to submit the second planning capacity report due August 1, 2029 for the period of January 1, 2030 thru Dec 31, 2039.

## Procurement of Recovered Organic Waste Products

RCRC appreciates the inclusion of mulch as an allowed procurement material, which has more potential for use in rural counties, is easier and less costly to process, and has water saving benefits. However, the requirement for pathogen and metal testing for mulch is excessive, especially if the source of mulch is wood waste.

While RCRC still maintains that this procurement mandate was not authorized by SB 1383 and constitutes an unfunded mandate, we appreciate the delay for the "rural jurisdictions" procurement requirements from January 1, 2022 through December 31, 2026.

## Penalties

The removal of the penalty tables is much appreciated. The replacement using minor and moderate violations is improved but lacks clarity and specificity on determining the difference. Only "major" violations have a specific list of violation types. Using the vague terms of "minimal" and "moderate" deviations are undefined and offer no criteria on determining the difference. Moderate violations are identified as violations that are not minor or major.

RCRC also believes the penalty assessments unfairly put the burden of meeting the "statewide" goal on the backs of local government. It is inappropriate to call these regulations goals and targets when penalties will be imposed on our residents, industry partners, and local jurisdictions. It is even more inappropriate when the State entities, federal agencies, and schools, who are large contributors to the organic waste stream, have no consequence for non-compliance other than getting put on a "list-of-shame."

While removing the penalty tables has simplified implementation of the penalty requirements and is *greatly* appreciated, we still believe the penalty section is premature and should be considered in a separate set of regulations.

## Solid Waste Facility Requirements

*Gray Container Waste Evaluations*

The reduction of sampling in the gray container waste evaluations at transfer/ processing facilities and the removal of gray container waste evaluations at landfills is an enormous improvement and respectfully appreciated. Also, the inclusion of offsite gray container waste evaluations is seriously appreciated, as many of the rural county transfer stations do not have the appropriate site specifications to conduct gray container waste evaluations.

*Incompatible Materials Limit*

The phasing of incompatible material limits is very helpful and will provide valuable time to make necessary facility and operating changes to existing processing facilities. RCRC suggests that the 10 percent requirement be extended one year, to January 1, 2025, to coincide with expectation of new facilities online and the increased diversion goal.

*Organic Disposal Reduction Status Impact Report (SIR)*

While RCRC is grateful for the elimination of the requirements to make alternative intermediate cover as effective as final cover, we still believe this report imposes excessive requirements on landfills. The report could be included in the next five-year review rather than imposing a separate report. A number of the listed analyses are not impacted by reducing organic disposal including the site development, volumetric capacity (less waste will not change capacity), waste handling methods, operation and closure design, and grading. RCRC recommends this report be folded into the next five-year review.

In summary, the regulations in their current form demand jurisdictions to concurrently plan, develop, and implement ordinances, create residential food waste collection services and edible food recovery programs, conduct outreach and education programs, develop infrastructure, monitor sampling programs, conduct enforcement programs and more, and will necessitate significant additional staff resources. It is also commonly accepted that there are currently insufficient existing organic processing facilities in the state to handle the amount of organics needed to be diverted to meet the 75 percent organics reduction goal set by SB 1383.

There are currently more than 160 permitted compost facilities and over a dozen anaerobic digesters throughout the state.[1] The Draft Programmatic Environmental Impact Report for the SB 1383 Regulations Short-Lived Climate Pollutants: *Organic Waste Methane Emission Reduction*, anticipates 108 new and/or expanded compost facilities and 61 new and/or expanded anaerobic digesters, with all but six anticipated to

be built by 2025. This is not a realistic expectation. To meet the 75 percent organics reduction goal, that number of facilities will need to be sited, permitted, financed, and built in the next six years.

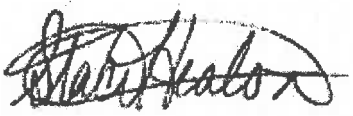
Recognizing the economic and logistical challenges of organic waste recycling in California, RCRC believes a more realistic approach is to focus CalRecycle's resources and efforts in the most urban areas first, and phase in the other counties. California's fifteen most populated counties (over 750,000 persons) represent nearly 83 percent of the State's population (see Attachment 2 for population estimates) and could be subject to the implementation date as proposed.

The 24 counties with populations of at least 70,000 but less than 750,000 (representing 16% of the state's population) could begin implementation January 1, 2025. The final 19 counties with populations of less than 70,000 (representing 1.5% of the state's population) could delay implementation until January 1, 2030. It is difficult to justify the state spending their valuable resources ensuring statewide compliance from the start, knowing there will be a lack of sufficient processing capacity in 2025.

RCRC would like the opportunity to develop interim program alternatives for the less populated counties until their delayed implementation dates. The intent is to provide an incentive to engage communities to implement organic waste programs to minimize food being wasted and organic waste being landfilled.

RCRC appreciates the outreach efforts and stakeholder involvement that CalRecycle has provided to develop a regulation to assist all stakeholders in meeting the statewide organic diversion goals. We remain dedicated to working collaboratively to find a reasonable and responsible way to move forward in meeting our goals. Please do not hesitate to call if you have any questions or want to discuss any of these concerns further.

Sincerely,



STACI HEATON
Senior Regulatory Affairs Advocate

cc: Scott Smithline, Executive Director, CalRecycle
Hank Brady, Manager, CalRecycle
RCRC Board of Directors

Attachments:

- Detailed Comments
- State/County Population Estimates

Proposed SLCP Regulations October 2019

Rural County Representatives of California (RCRC) Comments to CalRecycle

| Section | Page | Line | Proposed Language | Rationale |
|---|---|---|---|---|
| Article 1 Section 18982 (a) (31.5) | 8 | 9 | "Hauler route" means the designated itinerary or sequence of stops for a ~~each segment of the~~ jurisdiction's collection service area. | This revised definition is still not clear. Assuming the intent is to cover the entire service area, the use of segment lends unnecessary and confusing language. |
| Article 1 Section 18982 (42) | 9 | 18 | (42) "Non-local entity" means an entity that is an organic waste generator but is not subject to the control of a jurisdiction's regulations related to solid waste. These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, tribal nations, and state agencies. | In addition to the current list of entities that are traditionally outside the local jurisdictions authority to regulate, tribal nations are also outside the local jurisdiction's authority and should be added to the definition's listed entities. |
| Article 2 Section 18983.1 (a) (2) | 13 | 23 | | This version removes the mention of material recovery (MRF) fines. MRF fines will contain a portion of organic material. There is no practical means to remove all trace of organic material and there is no other practical use for MRF fines than as alternative daily or intermediate cover. Removing reference to MRF fines leaves the status uncertain. The proposed regulations should clearly identify the status of MRF fines. |
| Article 3 Section 18984.5 (b) | 23 | 32 | Containers may be randomly selected along a hauler route. This section should not be construed to require that every container on a hauler route must be sampled annually | This clarification is very helpful. |
| Article 3 Section 18984.5 (c) | 24 | 34 & 39 | (A) A jurisdiction that is implementing a three-container or two-container organic waste collection service pursuant to Sections 18984.1 or 18984.2 shall conduct waste composition studies per the schedule below ~~at least twice per year~~ and the studies shall occur in two distinct seasons of the year. | The requirement for once per quarter waste composition for the gray container on line 39 is inconsistent with the earlier statement on line 34 that indicates waste composition studies are conducted twice per year. |
| Article 3 Section 18984.5 (c)(1)(E)4. | 25 | 10 | 4. For routes with ~~more than~~ 7,000 generators or more the study shall include a minimum of 40 samples | Changes to the preceding lower numbers only goes up to 6,999 generators. Without this change, there would be no sample size for exactly 7,000 generators |
| Article 3 Section 18984.5 (d) | 26 | 9 | ... textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county | The allowance that organics from quarantine areas "is not required" to be measured as organics implies that in some cases these quarantined organics might be counted as organics. This language should be revised to clearly indicate that these quarantined materials should not be counted as organics for purposes of waste characterizations to avoid potential safety |

| Section | Page | Line | Proposed Language | Rationale |
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| | | | agricultural commissioner~~, is not required to~~ shall not be measured as organic waste | concerns for workers and spreading of contamination. The safest method of disposal is direct landfill immediately with no chance or required to sort the wastes. |
| Article 3 Section 18984.10 | 29 | 6 | (a) Commercial businesses ... | The proposed change is a good clarification for this requirement, but the deleted text is missing. |
| Article 3 Section 18984.12 (a)(2) | 31 | 6 | | This change just restates the previously deleted language and continues to disregard the significant "edge effect" common in rural areas where a significant majority of the population in a large census tract is concentrated in a small area where the remaining larger portion of the unincorporated census tract area is sparely populated but the entire census tract is over the proposed 75 people per square mile. Jurisdictions have ability to exclude those sparsely populated areas of the census tract such as consideration of block groups using the same requirement of 75 people per square mile. |
| Article 3 Section 1894.12 (c)(2) | 31 | 29 | | Extending the rural exemption until December 31, 2026 is appreciated. |
| Article 3 Section 18984.12 | 30 | 33 | Add a statement before subsection (a) that states" "The Department may grant waivers as outlined below and additional waivers to jurisdictions upon demonstration to the Department" | We are extremely concerned that CalRecycle has not considered the substantial evidence provided of significant issues with bears attacking solid waste containers throughout California. CalRecycle seems to have dismissed the existing conflicting regulatory requirement raised by one of our rural Agriculture Commissioners that collection of food waste would be considered "harassment of animals" as defined in Title 14, section 251.1. Introducing segregated food waste collection will disrupt bear, racoon, and other animal behavior. It will also bring bears closer to the human population and create an increasing public safety issue. Bears caught attacking garbage and food waste will need to be relocated at considerable expense or destroyed which would increase the amount of organic waste disposal for the bear carcass given the size of bears. We again request that CalRecycle include a provision to address this vital issue. It is also short-sighted of CalRecycle not to have provisions for applying for additional waivers in the future. |
| Article 3 Section 18984.13 | 32 | 35 | (1) If the facility processing a jurisdiction's organic waste notifies the jurisdiction that unforeseen operational restrictions have been imposed upon it by a regulatory agency or that an unforeseen equipment or operational failure or scheduled maintenance will temporarily prevent the facility from processing and recovering organic waste, the jurisdiction may allow the organic waste stream transported to that facility to be deposited in a landfill or landfills for up to 90 days from the date of the restriction or 38 failure. | This proposed language continues to not recognize that temporary in ability to process and recover organic waste can also be due to scheduled equipment repair. The proposed revisions would require an operator to wait until equipment failure happens to utilize this allowance resulting in more expensive and likely longer down time than if there is an allowance for scheduled maintenance. |

| Section | Page | Line | Proposed Language | Rationale |
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| Article 3, Section 18984.13 | 33 | 37 | ... regulations to manage and recover organic wastes that is waived pursuant to subsections (a), (b), and (c) and/or that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter. These materials may be subtracted from the "generated" amount and the "disposed organic materials" amount. | Under this section, jurisdictions are not required to separate or recover certain organic waste, such as homeless encampments, illegal disposal sites, and waste from quarantine areas (line 16 and 24) and these wastes are allowed to be landfilled. However, the allowance for disposal does not exempt the organics from be counted as disposal especially in gray container sorts. There should be a provision that excludes these landfilled wastes from counting as disposed organics. These wastes should also be granted a "disposal reduction credit" or tonnage modifications for purposes of AB 939 counting in the Electronic Annual Report similar to the one existing for quarantined wastes and others. |
| Article 4 Section 18985.1 (e) | 35 | 28 | | The change to translating education and outreach into "any non-English language spoken by a substantial number of the public provided organic waste collection services by the jurisdiction" is greatly appreciated and in line with other public health requirements. |
| Article 7, Section 18988.3 (b)(3)(C) | 42 | 24 | After the word "site" delete the rest of the sentence and replace with: or has scales that cannot accurately measure small loads, the self-hauler shall not be required to record the weight of the material, and shall provide records of the only if requested by the jurisdiction. | The phrase "employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of waste received," lacks clarity and poses the question on how accurate this would be. The usual reason for this scenario is a small quantity of waste that the facility scale calibrated for larger loads cannot accurately weigh. |
| Article 9 Section 18990.1 (b)(1) | 44 | 26 | (1) Prohibit~~, or otherwise unreasonably limit or restrict,~~ the lawful processing and recovery of organic waste | The proposed language is vague an invites legal challenges since it establishes no criteria for determining what would be considered an "unreasonable limit or restrict" processing and recovery or organic waste. An example would be imposing odor controls and limiting hours of operation that someone could consider unreasonable. This language should be removed. |
| Article 11 Section 18992.1 (c)(3)(C) | 51 | 7 | No change | The change is appreciated that requires information to be provided in "non-English languages spoken by a substantial 8 number of the public in the applicable jurisdiction". |
| Article 11 Section 18992.2 (b)(1) | 52 | 30 | (1) ~~Entities~~ Food recovery organization and food recovery services contacted by a jurisdiction shall respond to the jurisdiction within 60 days regarding available and potential new or expanded capacity | The use of the undefined term "entities" is vague and lacks clarity. |
| Article 12 Section 18993.1 (e)(2) | 54 | 31 | (e)(2) Requiring, through a written contract or agreement, that a direct service provider, including a regional agency or special district, to the jurisdiction procure recovered organic waste | This subsection should be revised to authorize regional agencies and special districts to coordinate procurement on behalf of their individual members. These entities are included in the definition of jurisdictions in Article 1, Section 18982 (36). Although cities and counties are ultimately responsible for compliance, the benefits of a regional agency to coordinate resources is the most important service to the members. There are currently 27 Regional Agencies representing 142 cities |

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| | | | products and provide written documentation of such procurement to the jurisdiction. | and unincorporated counties (many of them are in rural areas). Explicitly allowing Regional Agencies and special districts to be a means to comply with this requirement is important. The current language does not clarify that a Regional Agency or special district can also be a "direct service provider". |
| Article 12, Section 18993.1 | 54 | 36 | | The proposed per capita procurement requirements of 0.08 tons per resident per year would force jurisdictions to procure amounts of recovered organic waste products that are an order of magnitude larger than what is currently used. This is unrealistic and impossible for jurisdiction's compliance without significant cost. The huge gap between the procurement requirement and actual markets/consumption needs for organics-derived materials indicates that the assumptions used for calculating imposed procurement quantities must be revisited. |
| Article 12 Section 18993.1 (f)(4)(A) | 55 | 4 | (A) The jurisdiction has an enforceable ordinance, or similarly enforceable mechanism, that requires the mulch procured by the jurisdiction to comply with this article; ~~to meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in Section 17852(a)(24.5)(A)(1) through (3) of this division;~~ | The addition of mulch for meeting the procurement requirements is much appreciated however the requirement that all mulch undergo testing for pathogens and metal content is unwarranted. A considerable amount of mulch is derived This testing requirements should be deleted as unnecessary. At a minimum, the testing requirement for mulch from wood waste should be exempt. |
| Article 12 Section 18993.1 (f)(4)(B) | 55 | 12 | (B) The mulch is produced at one or more of the following: 1. A compostable material handling operation or facility as defined in Section 17852(a)(12), ~~other than~~ including a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or | There is no basis for not allowing chipping and grinding operations or facilities to contribute the mulch procurement target. This limitation should be deleted as unnecessary. |
| Article 14 Section 18995.4 (b) | 68 | 23 | Add: (4) The failure of state agencies, federal agencies, and other non-local entities to comply with local requirements. | Allowing extensions to the compliance deadline for extenuating circumstances is much appreciated; however, some jurisdictions will experience impracticable compliance due to the lack of or limited participation due to state agencies, federal agencies, schools, or other entities that are not required to comply with local ordinances or other enforceable mechanisms. Failure to comply with the proposed regulations for these entities only results in placement on a list of non-complying entities and other minor actions while the jurisdiction could be penalized for their non-participation. A new extenuating circumstance should be added to address this problem that is currently impacting jurisdiction and will be significantly increased to the cost of implementation of these proposed mandates. |
| Article 15, Section 18996.2 | 69 | 41 | (1) Issue a Notice of Violation requiring compliance within 90 days of the date of issuance of that notice. The Department may grant an extension for a reasonable period according to the actions | This section does not provide sufficient flexibility to the Department to address unique challenges that jurisdictions may encounter. The Department may find that extenuating circumstances, such as insufficient facility capacity, require more than 180 days to address. This section should allow the Department the flexibility to grant, at its discretion, a reasonable period. |

| Section | Page | Line | Proposed Language | Rationale |
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| | | | required. a ~~total of 180 days, from the date of issuance of the Notice of Violation, if the jurisdiction submits a written request to the Department within 60 days of the Notice of Violation's issuance that~~if ~~it finds that additional time is necessary for the jurisdiction to comply.~~ | |
| Article 15 Section 18996.2 (a)(2)(B) | 70 | 41 | (B) For the purposes of this section, "substantial effort" means that a jurisdiction has taken all practicable actions to comply including extenuating circumstances as identified in Section 18995.4 (b). | Another consideration when a jurisdiction is unable to meet a compliance deadline is the extenuating circumstances listed in Section 18995.4 (b) and also as outlined in comments on Section 18995.4 (b) the non-compliance of state agencies, federal agencies, and other non-local entities. The allowance for considering extenuating circumstances should also be considered |
| Article 15 Section 18996.2 (a)(4) | 71 | 26 | (4) An initial Corrective Action Plan issued due to inadequate organic waste recycling infrastructure capacity may be extended for a period of up to 12 months if the department finds that the jurisdiction has demonstrated substantial effort. Additional extensions in 12-month increments may be granted if the department finds that the jurisdiction has demonstrated substantial effort. | Allowing 24 months for compliance may be sufficient for some jurisdiction measures but others may take considerable time to resolve beyond 24 months or even 36 months if an extension is granted per section 18996.2 (a)(4). In some cases all new agreements may need to be drafted and approved and limiting that situation to an absolute deadline of 36 months lacks a fundamental understanding of the realties of solid waste agreements.<br><br>Some circumstances could include the extenuating circumstances identified in section 18995.4 (b). Another circumstance requiring more than 36 months could include if a new hauler or facility agreement is necessary for compliance. A Request for Proposals would need to be developed, circulated, submittals received, evaluated, and then awarded. The amount of such agreements is significant and usually requires approval of an elected body with all of the required public notices including any associated fee increases which have a separate timeline for approval and often subject to the proposition 218 process. Notice will be required to the current contractor and the new contractor, or even the current provided if successful will potentially need to secure new property and collection equipment and possible processing equipment or negotiate agreements for use of a suitable facility. Successful completion of all these steps can easily consume 24 months assuming the facilities to be utilized by the jurisdiction may need to revise the solid waste permit which requires public notices and potential environmental review that could take at least a year or more.<br><br>In addition, CalRecycle has determined that there will (or will no) be sufficient capacity in California for processing all of the required organics, and that capacity will likely not be available within a reasonable distance to some jurisdictions. That lack of organic waste recycling capacity is recognized in the proposed regulations in section 18996.2 (a)(2)(A). Limiting an extension to only a maximum 36 months assumes that sufficient capacity will exist within a few years of the determination of non-compliance.<br><br>Another factor that could require more than 36 months for a jurisdiction to comply is a major portion of the non-compliant organic recycling is due to organic waste generators located in multiple jurisdictions and enforcement activities are undertaken as identified in section 18996.5. A non-compliant jurisdiction should not be penalized due to delays since the |

| Section | Page | Line | Proposed Language | Rationale |
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| | | | | timing for such an action will be determined by CalRecycle and delays in resolving those situations, and then once resolved local jurisdiction compliance will need to be implied. It is a likely situation that the multi-jurisdictional entity is a national or international entity and could even be a federal agency.<br><br>Allowing for extensions beyond 36 months is necessary and reasonable given the magnitude of the efforts of these proposed regulations and the magnitude of fines for non-compliance. |
| Article 16 section 18997.3 | 83 | 19 | No recommendation since the concept is arbitrary and lacks clarity and should be referred to a separate regulatory package. | The replacement of the complicated jurisdiction penalty tables is greatly appreciated. However, as indicated in earlier submitted comments, developing such penalties is premature and CalRecycle's authority under the enacting legislation is not authorized.<br><br>In addition, the replacement using minor, moderate, and major violations is improved but lacks clarity and specificity on determining the difference between the three classifications. Only "major" violations have a specific list of violation types. Using the vague terms of "minimal" and "moderate" deviations are undefined, arbitrary, and offer no criteria on determining the difference between the levels. Moderate violations are identified as violations that are not minor or major and are a "failure to comply with critical aspects of the requirement". Without a definition or criteria for at least minor violations, the terms are arbitrary.<br><br>Previously the minimum fine for jurisdictions started at $50 for Level 1 or "minor violations" and had lower amounts throughout the proposed levels until Level 6 violations. We recommend the lower limits for each of the types of violations be reduced. |
| Article 16 section 18997.5 (c) | 101 | 30 | (c) Upon receipt of the accusation, the respondent shall file a request for hearing with the director of the Department within ~~15~~45 days, or the respondent will automatically be deemed to have waived its rights to a hearing. | Allowing a jurisdiction only 15-days to file a request for a hearing is an unreasonable expectation. The process for a jurisdiction to evaluate whether to file a hearing request involves a jurisdiction to take formal local action which may be subject to a vote of an elected body since jurisdiction resources will be expended in preparing and participating in a hearing that cannot be convened within the 15-day time frame. Allowing time for the jurisdiction to prepare and notice such an action should allow more time. |
| Article 16 section 18997.5 (d) | 101 | 36 | (d) The Department shall schedule a hearing within ~~30~~60 days of receipt of a request for hearing that complies with the requirements of this section. | Similar to the comments on section 18997.5 (c), a jurisdiction will need additional time to prepare a defense. Legal staff and consultants will need to be assigned or retained. These expenses will likely need approval of the elected body. This approval and the subsequent preparation will need a significant more time than 30 days. Given the magnitude of the potential penalties, the penalty phase should not be rushed. |
| Article 17, Section 18998.1 | 103 | 7 | After the words "of this chapter" delete the rest of the sentence and replace it with generating 90% of the commercial waste that is subject to the jurisdiction's authority. | We suggest Section 18998.1. (a)(1) requirement to provide 3-container service to 90% of the commercial businesses should be reconsidered. Cities have a large scale of commercial establishments (small to large scale establishments) with a wide-range of waste generation rate. Therefore, we request that the 3-container service providing requirements should be based on 90% of tonnage generated from all commercial businesses combined. |

| Section | Page | Line | Proposed Language | Rationale |
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| Article 17, Section 18998.1 | 103 | 11 | Insert a new (a)(3) subsection (4): Between January 1, 2022 - December 31, 2024: No more than 50 percent of the organic waste collected in the jurisdiction is disposed in a landfill.<br><br>After January 1, 2025: No more than 25 percent of the organic waste collected in the jurisdiction is disposed in a landfill. | Measurement of the organics content of the "gray container waste" as collected does not account for organics sorted from the gray container by post-collection processing. A methodology that's a combination of front-end source-separated organics and post-collection recovery of organics before disposal is the best way (perhaps the only way) to achieve 75% diversion.<br><br>Instead of imposing 75% diversion mandate from January 1, 2022, a two-phase compliance schedule should be considered, which would allow facilities to come in compliance in a phased approach which is more realistic. Furthermore, the percentage of organic waste present in the gray container collection stream collected and the percentage of organic waste disposed in a landfill shall be determined by a measurement methodology submitted by the jurisdiction to the department for approval no less than 180 days prior to the start of the performance-based collection system. |
| Article 17 section 18998.1 (e) | 104 | 17 | (e) The requirements of Subdivision (~~e~~d) are not applicable to: | This section is a typographical error since it indicates the requirement is not applicable to the same subsection. |
| Article 6.2 Section 17409.5.8 (a) | 131 | 4 | (a) A transfer/processing facility or operation shall ~~only~~ send offsite that organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream that meets the following requirements | It is not clear why the word "only" was inserted in this requirement. As written, the ONLY waste that can leave a transfer/processing facility or operation is "organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream". What happens with the rest of the solid waste collected at the transfer/processing facility or operation? |
| Article 6.2 section 17409.5.10 (d) | 134 | 25 | (d) Materials shall be transported only to transfer/processing facilities or operations, that comply with Section 17409.5.1. or landfills, or recycling centers or other location that accepts the material. | There are consolidation sites, such as limited volume transfer stations, that transport collected materials directly to a landfill rather than transfer/processing facility or operation. Also, some of these consolidation sites also collect recyclables or provide containers for customers to source separate recyclables. Mandating that these materials ONLY go to a transfer/processing facility or operation imposes significant costs and double handling. If there is no transfer/processing facility or operation between the consolidation site and the landfill or recycler, the wastes will need to be transported excessive distances increasing vehicle emissions and wasting fuel. |

## SB 1383 Summary and Impacts on Rural Jurisdictions

- SB 1383 (Lara, Chapter 395,. Statutes of 2016) is the most significant waste reduction mandate to be adopted in California in the last 30 years.
- SB 1383 requires the state to reduce organic waste [food waste, green waste, paper products, etc.] disposal by 50% by 2020 and 75% by 2025.
- The law also requires the state to increase edible food recovery by 20 percent by 2025.
- CalRecycle is expecting to have the expansive regulations adopted by the end of the year with most implementation required by 2022.
- The implementation of SB 1383 regulations has been a constant topic at every ESJPA meeting since passage of the legislation
- Although CalRecycle has estimated that the new requirements will only increase statewide average residential rates by $17 per year and commercial rates by $662 per year, rural jurisdiction implementation costs are expected to be significantly higher.
- CalRecycle has proposed several waivers applicable to rural jurisdictions including:
    - Continuing the rural exemption from the mandatory commercial organics collection for populations less than 70,000 until 2025 but some SB 1383 requirements will still be required to be implemented.
    - High elevation waiver for collection of food wastes at or above 4,500 feet. We have repeatedly requested additional waive ability for areas with bear issues at lower elevations but have yet to be successful
    - Census tracts with a population density of less than 75 people per square mile are exempt. This exemption will greatly assist rural areas; however, large census tracts where the population is concentrated in one small area of a census tract will still be required to comply with the full requirements.
- Jurisdictions will need to adopt numerous ordinances or other enforceable mechanisms including: mandating haulers to provide organic waste collection, require self-haul customers to haul organic waste to facilitates that separate organics, compliance with CalGreen Building Standards, compliance with Model Water Efficient Landscape Ordinances,
- Additional requirements are imposed on collection of services for three container, two container and single container services.
- Single container services will be required to be transported to a high diversion organic waste processing facility prior to disposal in a landfill. Few rural transfer stations or landfills have ability to conduct this required diversion of 50 percent of the organic wastes at this time.
- Monitoring collection routes of organics for contamination or conducting annual random route reviews or conducting waste composition studies twice a year on representative samples of the entire jurisdiction's recycling and organic waste containers and quarterly on solid waste containers. Notification of violations will be required with mandatory follow up on compliance. Documentation of these contamination minimization efforts to CalRecycle will be required.
- Conduct inspections of commercial facilities for compliance with mandates

- There is insufficient infrastructure in California for processing the estimated amount of collected organics and insufficient time to site and permit facilities by the proposed mandated deadlines.
- Imposes annual procurement requirements on jurisdictions, in amounts calculated by CalRecycle at 0.08 tons per resident per year, for organic materials including combinations of compost, mulch, renewable gas, and/or electricity from biomass conversion. Procurement of recycled content paper products will also be required.
- Conduct inspections of commercial edible food generators over certain sizes including supermarkets, grocery stores, food distributers, restaurants, hotels, health facilities, and schools
- Identify food recovery organizations and services and assist with program development for food recovery.
- Transfer stations will be required to conduct waste evaluations and report on the percentage of organic waste found in the solid waste sent for disposal. These evaluations will be conducted quarterly and representative of the jurisdiction.
- Landfills will be required to prepare and submit a report to CalRecycle on the potential impacts of organic disposal reductions.
- Extensive recordkeeping on all aspects of SB 1383 regulations will be required of jurisdictions will need to be maintained and available for state inspections.
- The requirements will impose significant financial penalties for minor, moderate, and major violations up to $10,000 per violation per day.

**Rural Counties**
**Environmental Services**
**Joint Powers Authority**

# ESJPA

## SB 1383 SLCP Organic Waste Reductions
## Proposed Regulation Text Requirements

November 19, 2019

**This summary is based upon the October 2, 2019 proposed CalRecycle Short-Lived Climate Pollutants regulations and provides an overview, divided into proposed requirements for different entities including:**

Contents



The red print denotes changes from the June 17, 2019 draft. Not all changes that were made have been highlighted in red.

This is a summary of the regulations by entities. Refer to the entire document for specific details regarding the requirements.

The proposed regulations are available at: https://www2.calrecycle.ca.gov/Docs/Web/115719

# General Provisions

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**General Provisions**
18981.1. Scope of Chapter. (a) and (b) This Chapter establishes regulatory requirements for jurisdictions, generators, haulers, solid waste facilities, and other entities to achieve the organic waste reduction targets; and includes requirements for jurisdictions to adopt and implement organic waste collection services and to develop edible food recovery programs, limitations on local ordinances, policies, and initiatives that are in conflict, requirements for the procurement of recovered organic waste products, and minimum standards for reporting, enforcement, and penalties to be implemented by jurisdictions and the department. (page 3)

**Article 1. Definitions**
18982. Definitions. All definitions are found on pages 4-13. There were modifications to some definitions and a few added. Of note:

18982. (5) "Blue container" clarifies that the container can have either the lid in blue with a body any color or the body is blue and the lid is either blue, gray, or black.

18982.(5.5) "Brown container" clarifies that the container can have either the lid in brown or the body is brown and the lid is either brown, gray, or black.

18982.(28) "Gray container" clarifies that the container can have either the lid in gray or black or the body is gray or black and the lid is either gray or black.

18982.(29) "Green container" clarifies that the container can have either the lid in green or the body is green and the lid is either green, gray, or black.

| Container | Blue | | | Brown | | Gray | | Green | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-organic recyclables | | | Separated food waste p18 | | Non-organics | | Organics | |
| Lid | Blue | Blue<br>Gray<br>Black | If additional or split cart, darker blue for organics, lighter for non-organics (not specific on lid or body) | Brown | Brown<br>Gray<br>Black | Gray<br>Black | Gray<br>Black | Green | Green<br>Gray<br>Black |
| Body | Any color | Blue | | | Brown | | Gray<br>Black | | Green |

18982.(a)(31.5) "Hauler route" means the designated itinerary of sequences of stops for each segment of the jurisdiction's collection service area. (page 8)

18982. (a)(46) "organic waste" means solid wastes containing material originated from living organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges. (page 9)

18982. (a)(60.5) "Recovery location" includes the closest aggregating hub used to recover the organic waste after collection. This could include but is not limited to a transfer facility, recycling facility, or recovery facility. (page 11)

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

18983.1. Landfill Disposal and Recovery. (a) Final disposition of organics at a landfill and the use of organic waste as ADC or AIC at a landfill of organic waste. Reference to MRF fines has been removed. (page 13)

18983.1. (b) Organic waste sent to an operation that qualifies as a "Recycling Center"; a "Compostable Material Handling Operation or Facility"; and "In-vessel Digestion Operation or Facility"; a Biomass Conversion operation or facility; used a soil amendment for erosion control, revegetation, slope stabilization, or landscaping at a landfill when the material is used in a specified manner; land application subject to conditions; and lawful use as animal feed shall be deemed to constitute a reduction of landfill disposal. (page 13)

18983.2. Determination of Technologies that Constitute a Reduction in Landfill Disposal. Provides a process for other operations, facilities, or activities not listed above to be deemed to constitute a reduction in landfill disposal. (pages 15-16)

## Jurisdictions

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**General Provisions**
18981.2. Implementation Requirements on Jurisdictions. (a) By January 1, 2022, a jurisdiction shall adopt an enforceable mechanism to mandate that organic waste generators, haulers, and other entities under its jurisdiction comply with the requirements of this chapter. (page 3)

18981.2. (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.

18981.2. (c) If a jurisdiction chooses to use public or private entities to fulfill the requirements, the jurisdiction is ultimately responsible for compliance.

18981.2. (d) Nothing in this chapter authorizes a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action tom impose civil penalties, to a private entity.

18981.2. (f) Nothing in this section authorizes a jurisdiction to require a public or private entity to fulfill its obligations under this chapter without designating the entity through a mechanism authorized in Subdivision (b) of this Section. (page 4)

**Article 3. Organic Waste Collection Service**
18984. (c) A jurisdiction may provide any combination of organic waste collection services specified in Sections 198984.1, .2, and .3 (below) to generators subject to its authority. (page 17)

18984.1. Three-Container Organic Waste Collection Service. A jurisdiction may implement a three-container collection service by providing a green (organic waste), blue (recyclables), and a gray (non-organic waste) containers. This section provides additional details on materials accepted and restricted in each container, changes yellow to brown container for separated food waste, when the use of compostable plastic or plastic bags are acceptable in the containers, the acceptable use of uncontainerized green waste and yard waste collection service, labeling requirements, and facility requirements for each container type (pages 17-19).

18984.2. Two-Container Organic Waste Collection Service. A jurisdiction may implement a two-container collection service by providing a green (organic waste) and a gray (comingling of all other collected waste not intended for the green container) container, or a blue (non-organic recyclables only) and a gray (comingling of all other collected waste not intended for the blue container) container. This section provides additional details on materials accepted and restricted in each container, when the use of compostable plastic or plastic bags are acceptable in the containers, the acceptable use of uncontainerized green waste and yard waste collection service, labeling requirements, and facility requirements for each container type. Allows the contents of a blue container to split into additional containers to separate organics from non-organics recyclables (pages 20-21).

18984.3. Unsegregated Single-Container Collection Services. (a) A jurisdiction may implement a single gray container collection service provided the contents are transported to a high diversion organic waste processing facility. (page 21-22)

18984.3. (b) If the facility has an annual average mixed waste organic content recovery rate that is lower than required for two consecutive quarterly reporting periods or three reporting periods within three years, the facility shall not qualify as a high diversion organic waste processing facility.

18984.3. (c) If a jurisdiction is in violation due to using a facility unable to meet the required annual average mixed waste organic content recovery rate, the jurisdiction shall be subject to the enforcement process, which may include a corrective action plan.

This section provides additional details on the use of consolidation sites, the use of bags for organic wastes are acceptable in the containers, and the acceptable use of uncontainerized green waste and yard waste collection service. (page 22)

18984.5. Container Contamination Minimization. (a) A jurisdiction shall monitor the 3 and 2 container collection service to minimize prohibited contaminants in a manner that complies with either subdivision (b) or (c) of this section. (1) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service pursuant to Section 18998.1 shall monitor containers through the method specified in the provision of Subdivision (c). (pages 23-25)

18984.5. (b) A jurisdiction may meet its container contamination minimization requirements by conducting route reviews for prohibited contaminants with all hauler routes being reviewed annually. Containers may be randomly selected along a hauler route. This section should not be construed to require that every container on a hauler route must be sampled annually.

(1) If contaminants are found in a generator's container, the jurisdiction notify the generator of the violation, which may be left on the container, gate, or door and/or be mailed or emailed and shall include information on the requirements to properly separate materials.
(2) If contaminants are found in the green or blue container, the contents may be disposed.
(3) If contaminants are found on more than three consecutive occasions, the jurisdiction may impose additional contamination processing fees and may impose penalties.
(4) If the jurisdiction designates container contamination monitoring requirements to a designee, and the designee observes container contaminants, the designee shall inform the jurisdiction in writing, each month, with the address of the generator and the date the contamination was observed. A designee may only dispose of a container with visible prohibited container contaminants in accordance with a contract or other written arrangement between the jurisdiction and the designee.

18984.5. (c)(1)(A) A jurisdiction may meet its container contamination minimization requirements by conducting waste evaluations that meet the following standards. Conduct waste evaluations of the green and blue containers twice per year in different seasons. (pages 24-26)

(1)(B) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service pursuant to Section 18998.1 shall conduct waste composition studies at least twice per year for the blue and green containers and once per quarter for the gray container.
(1)(C) Samples shall be taken for each container type served by the jurisdiction that are representative of the jurisdiction waste stream ~~and account for no less than 0.5% of the weekly tonnage collected~~.

(1)(D) The number of samples is determined by the number of generators on the route according to the following:

| Route customers | Minimum samples |
|---|---|
| <1,500 | 25 |
| 1,500-3,999 | 30 |
| 4,000-6,999 | 35 |
| >7,000 | 40 |

(1)(E) Samples must be transported to a permitted solid waste facility sorting area to determine the ratio of contaminants for each container type by weight. For each container type, all samples are emptied in a pile on the sorting area. A 200-pound sample is randomly selected from different areas of the pile, contaminants removed and weighed, and the ratio determined.

(2) If contamination exceeds 25% for any container type, the jurisdiction shall notify all generators on the sampled hauler route to properly separate materials or perform targeted route reviews and notify the specific generators to properly separate materials.

18984.5. (d) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service shall notify the department within 30 days of conducting two consecutive gray container samples that each demonstrate prohibited container contaminants in the gray container exceed 25 percent. (page 25-26)

18984.5. (e) A jurisdiction that implements a performance-based source separated collection service shall, upon request, allow a representative of the department to oversee its next scheduled quarterly sampling of the gray container. (page 26)

18984.5. (f) For the purposes of demonstrating compliance with the requirements of performance-based source separated collection service, organic waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste. (page 26)

18984.7. Container Color Requirements. (a) A jurisdiction shall provide containers for collection services to generators that comply with the container color requirements. (b) A jurisdiction is not required to replace functional containers or lids that do not comply with the color requirement prior to the end of their useful life or January 1, 2036, whichever comes first. (page 27)

18984.8. Container Labeling Requirements. (a) and (b) Commencing January 1, 2022, a jurisdiction shall place a label that include language or graphic images on each new container or lid provided to generators, consistent with the applicable container collection requirements and limitations, specifying what materials are allowed in each container. (page 27)

18984.8. (c) Labels shall clearly indicate primary items that are prohibited container contaminate for each container.

**Waivers and Exemptions**

18984.11. Waivers Granted by a Jurisdiction. (a) A jurisdiction may grant one or more of the following types of waivers: (page 28)

(1) A De Minimis Waiver if the total solid waste collection service is two cubic yards or more per week and the organic waste subject to collection in a blue or a green container is less than 20 gallons per week per applicable container of the total waste or the total solid waste collection service is less than two cubic yards per week and the organic waste subject to collection in a blue or green container is less than 10 gallons per week per applicable container of the total waste.
(2) A physical space waiver if there is documentation or evidence that its premises lack adequate space for separate organic waste containers.
(3) A collection frequency waiver to any generator that subscribes to a 3 or 2 container organic waste collection service to arrange for a service that collects waste not placed in the green container once every fourteen days provided it is approved by the solid waste Local Enforcement Agency (LEA) and will not result in the propagation of vectors or other public health, safety, or nuisance issues.

18984.11. (c) The authority to issue a waiver authorized by this section cannot be delegated to a private entity. (page 30)

18984.12. Waivers and Exemptions Granted by the Department. (a) and (b) Low Population Waiver. An jurisdiction ~~incorporated city~~ that disposed of less than 5,000 tons of solid waste in 2014 and that has a total population of less than 7,500 people or a jurisdiction ~~county~~ with census tracts that have a population density of less than 75 people per square mile may apply to CalRecycle for a low population waiver as specified in this section. The waiver shall be good for a period of up to five years. (pages 30-31)

18984.12. (b) (3) A jurisdiction may apply to renew a waiver at any time up to 180 days prior to the expiration of an existing waiver.

18984.12. (c) Rural Exemptions. The Department shall grant an exemption from complying with the organic waste collection requirements until December 31, 2026 ~~January 1, 2025~~, for jurisdictions that meet the definition of a "Rural Jurisdiction" under the AB 1826 mandatory commercial organics recycling (counties with a population less than 70,000) if the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption. (page 31)

18984.12 (d) Elevation Waivers. (1) and (2) A jurisdiction may apply to the Department for waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food soiled paper if the jurisdiction is located at or above an elevation of 4,500 feet. This section includes additional specific provisions for applying for this waiver. (pages 31-32)

18984.13. Emergency Circumstances, Abatement, Quarantined Materials, and Federally Regulated Waste. (a) Emergency Processing Facility Temporary Equipment or Operational Failure Waivers. If a facility processing a jurisdiction's organic waste notifies the jurisdiction that unforeseen operational restrictions have been imposed on it by a regulatory agency or that a unforeseen equipment or operational failure will prevent the facility from processing, the jurisdiction may allow the organic waste stream to be deposited in a landfill for up to 90 days from the date of the restriction or failure. The jurisdiction shall notify the Department within 10 days of the waiver decision and shall include the period that the jurisdiction has allow the organic waste stream to be deposited in a landfill. (page 32)

18984.13. (b) Disasters and emergency waivers: (1) A jurisdiction may submit a request for a waiver for the disposal of "disaster debris" that cannot be diverted that are subject of a disaster. (2) The Department may waive the organic waste collection requirement of this article in the affected areas for the duration of the waiver. (3) A jurisdiction may dispose of sediment debris removed from dams, culverts, reservoirs,

channels and other flood control infrastructure if the material is subject to a waste discharge requirement issued by the regional water quality control board that requires the average organic content of the debris to be less than five percent. (page 33)

18984.13. (c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed is expected to exceed 100 tons annually, the jurisdiction shall record the amount of materiel removed. (page 33)

18984.13. (d) A jurisdiction may dispose of specific types of organic waste that are subject to quarantine and meet specific requirements involving the California Department of Food and Agriculture or the County Agricultural Commissioner. (page 33)

18984.13. (f) Nothing in this chapter requires generators, jurisdictions or other entities subject to these regulations to manage and recover organic waste that federal law explicitly requires to be managed in a manner that constitutes landfill disposal as defined in this chapter. (page 33)

**Article 4. Education and Outreach**

18985.1. Organic Waste Recovery Education and Outreach. (a), (b), and (c) Prior to February 1, 2022 and annually thereafter, a jurisdiction shall provide specific information to organic waste generators on the proper segregation for the type of collection service provided, methods for prevention and recycling, methane reduction benefits, public health, safety and environmental impacts, through print or electronic media or direct contact through workshops, meetings, or on-site visits. (page 34-35)

18985.1. (d) A jurisdiction may comply with the requirements through use of a designee. (page 35)

18985.1. (e) Consistent with Section 7295 of the Government Code jurisdictions shall translate education materials required by this chapter into any non-English language spoken by a substantial number of the public provided organic waste collection services by the jurisdiction. (The determination of when these materials are necessary when dealing local agencies shall be left to the discretion of the local agency.) (page 35)

18985.2. Edible Food Recovery Education and Outreach. (a) Prior to February 1, 2022, a jurisdiction shall develop and maintain a list of food recovery organizations and services operating within the jurisdiction and maintain the list on the jurisdiction's website. The list shall be updated annually. (page 36)

18985.2. (b) At least annually a jurisdiction shall provide commercial businesses that generate edible food with information about the jurisdiction's edible food recovery collection program, about commercial edible food generators requirements, about food recovery organization and services operating within the jurisdiction, and information about actions that commercial edible food generators can take to prevent the creation of food waste. (page 36)

**Article 7. Regulation of Haulers**

18988.1. Jurisdiction Approval Haulers and Self-Haulers. (a) A jurisdiction shall require haulers to meet the requirements and standards and to identify the facilities to which they will transport the organic waste as a condition of approval to collect organic waste. (page 40-41)

18988.1. (b) If a jurisdiction allows generators to self-haul organic waste, it shall adopt an enforceable mechanism that requires compliance with the requirements for self-haulers.

18988.1. (d) Jurisdictions that are exempt from the organic waste collection requirements and haulers and self-haulers operating or located within exempt areas of these jurisdictions, are not required to comply with the provision of this article for the duration of an exemption. (page 41)

**Article 8. CALGreen Building Standards and Model Water Efficient Landscape Ordinance**

18989.1. CalGreen Building Codes. A jurisdiction shall adopt an enforceable requirement that requires compliance with the CalGreen Building Standards Code pertaining to recycling by residential and non-residential. For purposes of this section "jurisdiction" means a city, a county, or a city and county. (page 43)

18989.2. Model Water Efficient Landscape Ordinance. A jurisdiction shall adopt an enforceable requirement that requires compliance with the Model Water Efficient Landscape Ordinance. For purposes of this section "jurisdiction" means a city, a county, or a city and county. (page 44)

**Article 9. Locally Adopted Standards and Polices**

18990.1. Organic Waste Recovery Standards and Policies. (b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that prohibits, or otherwise unreasonably limit or restrict, processing organic waste; limit a particular solid waste facility, operation, property, or activity from accepting organic waste imported from outside the jurisdiction for processing or recovery; require a generator or hauler to transport organic waste to a solid waste facility that does not process or recover organic waste; require a generator to use an organic waste collection service that do not recover at least the same types of organic waste recovered by a service the generator previously had in place. (page 44-45)

18990.2. Edible Food Recovery Standards and Policies. (a) A jurisdiction shall not prohibit the ability of a generator or food recovery organization to recover edible food that could be recovered for human consumption. (page 45)

18990.2. (c) The provisions of the California Good Samaritan Food Donation Act of 2017 apply. (page 45)

18990.2 (d) An edible food recovery service or organization may refuse to accept edible food from a commercial edible food generator. (page 45)

**Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery**

18991.1 Jurisdiction Edible Food Recovery Program (a) A jurisdiction shall implement an edible food recovery program that shall educate commercial edible food generators as set forth in section 18985.2, increase edible food generators access to edible food recovery organizations and recovery services, monitor commercial edible food generators compliance, and increase edible food recovery capacity if the jurisdiction does not have sufficient capacity to meet it recovery needs. (page 46)

18991.1 (b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms. (page 46)

**Article 11. Organic Waste Capacity Planning**

18992.1. Organic Waste Recycling Capacity Planning. (a) Counties, in coordination with jurisdictions ~~cities~~ and regional agencies shall estimate the amount of all organic waste in tons that will be disposed by the county and jurisdictions by using the percentage of organic waste reported as disposed in the Department's most recent waste characterization study or using a waste characterization study performed by jurisdictions located within the county that were performed within the last five years; identify the amount in tons of existing organic waste recycling infrastructure capacity both in county and outside of the county that is verifiably available to the county and jurisdictions within the county, and estimate the amount of new or expanded organic waste facility capacity that will be needed to process the organic waste identified. (page 49)

18992.1. (a)(2) A county may incorporate the findings of a published report generated by the appropriate solid waste management entities within the county that provides organic waste disposal tonnages or percentages for specific organic waste material types that are not covered in the Department's most recent waste characterization study. This may include, but is not limited to, reported tons of biosolids or digestate disposed in the county. (page 49)

18992.1. (b) A jurisdiction shall respond to a counties request for information within 120 days of the request. If a jurisdiction fails to provide the information, the county is not required to include estimates for that jurisdiction in the report it submits to the Department but shall identify the jurisdiction that did not provide the information in the report submitted to the Department. (page 50)

18992.1. (c) The county shall consult with the EA and local task force on the status of locations for new or expanded solid waste facilities; consult with haulers and owner of facilities, operations, and activities that recover organic waste, including composting, in-vessel digestion facilities and POTWs; and consult with composting operators to gather information on the existing capacity and potential new or expanded capacity at those facilities. (page 50)

18992.1. (c)(3) The county shall conduct community outreach regarding locations being considered for new or expanded facilities to seek feedback on the benefits and impacts that may be associated with the new or expanded facilities, including communication with disadvantaged communities. Communication required by this Section must be provided in non-English languages spoken by a substantial number of the public in the applicable jurisdiction in a manner that conforms with the requirements of Government Code Section 7295. (page 50)

18992.1. (d) If a county determines that additional organic waste capacity is needed, the county shall notify the jurisdiction(s) that lack sufficient capacity that each jurisdiction is required to submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the organic waste generated within the jurisdiction by the end of the report period, that includes timelines and milestones for planning efforts to access facilities, including obtaining funding and identification of the new or expanded facilities. (page 51)

18992.1. (e) The notice the county provides jurisdictions shall be provided on or before the county submits its report to the Department. (page 51)

18992.2. Edible Food Recovery Capacity. (a) Counties, in coordination with jurisdictions and regional agencies shall estimate the amount of edible food that will be disposed of by commercial edible food generators within the county, identify existing capacity at edible food recovery organizations that is

available to commercial edible food generators, identify proposed new or expanded edible food recovery organizations that will be used to process edible food, and identify the amount of capacity at edible food recovery organizations that is necessary to recover 20 % of the edible food that is estimated to be disposed. (page 52)

18992.2. (b) The county shall consult with food recovery organizations and services regarding existing, or proposed new and expanded, capacity that could be accessed by the jurisdiction and its commercial edible food generators. (page 52)

18992.2. (c) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified to recover, then each jurisdiction within that county that lacks capacity shall submit an implementation schedule to the Department that demonstrates how it will ensure there is enough new or expanded capacity to recover the edible food currently disposed of by commercial edible food generators within its jurisdiction by the end of the reporting period, that includes timelines and milestones for planning efforts to access facilities, including obtaining funding and identification of the new or expanded facilities. (page 52)

18992.2. (d) If the county finds that new or expanded capacity is needed, then on or before the county submits its report to the Department, the county shall notify the jurisdictions that lack sufficient capacity. (page 53)

18992.2 (e) A jurisdiction or regional agency shall respond to the county's request for information within 120 days of receiving the request. If the jurisdiction or regional agency fails to provide the information, the county is not required to include estimates for that jurisdiction but shall identify the jurisdiction in the report submitted to the Department. (page 53)

18992.3. Schedule for Reporting. (a) Counties shall conduct the planning requirements and report to CalRecycle on the following schedule: (page 53)

(1) August 1, 2022 for the period covering January 1, 2022 through December 31, 2024.
   (A) Jurisdictions that are exempt from the organic waste collection requirements are not required to conduct the organic waste recycling capacity planning and are not required to include capacity plans required by Section 18992.1 in the first reporting period. (NOTE: These jurisdictions are still required to conduct edible food recovery capacity planning.)
(2) August 1, 2024 for the period covering January 1, 2025 through December 31, 2034.
(3) August 1, 2029 for the period covering January 1, 2030 through December 31, 2039.
(4) August 1, 2034 for the period covering January 1, 2035 through December 31, 2044.

**Article 12. Procurement of Recovered Organic Waste Products**

18993.1. Recovered Organic Waste Product Procurement Target. (a) A jurisdiction shall annually procure a quantity of organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by the Department. For purposes of this section "jurisdiction" means a city, a county, or a city and county. (page 54)

18993.1. (b) On or before January 1, 2022, and ~~annually~~ every five years thereafter, the Department shall recalculate the annual recovered organic waste product procurement target for each jurisdiction, calculated by multiplying the per capita procurement target (=0.08 tons of organic waste per CA resident per year) by the jurisdiction's population. (page 54)

18993.1. (e) A jurisdiction shall comply by direct procurement of recovered organic waste products or requiring that a direct service provider procure organic waste products. (page 54)

18993.1. (f) The recovered organic waste products that a jurisdiction may procure to comply are:

(1) Compost that is produced at a permitted or authorized compostable material handling operation or facility or a permitted large volume in-vessel digestion facility (one ton of organic waste in a recovered organic waste product procurement target shall constitute 0.58 tons or 1.45 cubic yards of compost).
(2) Renewable gas used for fuel for transportation, electricity, heating application, ~~or pipeline injection~~.
(3) Electricity from biomass conversion.
(4) Mulch, provided specific conditions are met for the duration of the applicable procurement compliance year. These conditions include testing the mulch for physical contamination, pathogens, and metals (page 55)

18993.1 (g) The following conversion factors shall be used to convert tonnage in the annual recovered organic waste product procurement target for each jurisdiction to equivalent amounts of recovered organic waste products. One ton of organic waste in the recovered waste product procurement target constitute: (page 55)

(A) 21 diesel gallon equivalents, or "DGE", of renewable gas in the form of transportation fuel
(B) 242 kilowatt-hours of electricity derived from renewable gas
(C) 22 therms for heating derived from renewable gas
~~(D) 27 therms for pipeline injection of renewable gas~~
(E) 650 kilowatt-hours of electricity derived from biomass conversion
(F) 0.58 tons or 1.45 cubic yards of compost
(G) One ton of mulch

18993.1. (h) Renewable gas procured from a POTW may only county toward a jurisdiction's procurement target if specific conditions are met. (page 55)

18993.1. (i) Electricity procured from a biomass conversion facility may only count toward a jurisdiction's target if the biomass conversion facility receives feedstock from a specifically identified solid waste facilities. (page 56)

18993.1. (j) If a jurisdiction exceeds its annual procurement requirement with renewable transportation fuel, electricity, and gas for heating applications ~~and pipeline injection~~ from the previous year, the excess can be applied to the current year requirement. (page 56)

18993.1. (k) A jurisdiction shall identify additional procurement opportunities within the jurisdictions departments and division for expanding the use of recovered organic waste products. (page 56)

18993.1. (l) Rural counties, and jurisdictions located within rural counties that are exempt from the organic waste collection requirement are not required to comply with the procurement requirement in from January 1, 2022 through December 31, 2026. (page 56)

18993.3. Recycled Content Paper Procurement Requirements. (a) A jurisdiction shall procure paper products, and printing and writing paper consistent with the requirements of section 22150-22154 of the Public Contract Code. (page 58)

18993.3. (b) Paper products and printing and writing paper shall be eligible to be labeled with an unqualified recyclable label as defined in 16 Code of Federal regulations (CFR) section 260.12. (page 58)

18993.3. (c) A jurisdiction shall require all businesses from whom it purchases paper products and printing and writing paper to certify the minimum or exact percentage of postconsumer material in the products offered. (page 58)

**Article 14. Enforcement Requirements**

18995.1. Jurisdiction Inspection and Enforcement Requirements. (a) By January 1, 2022, a jurisdiction shall have an inspection and enforcement program that includes: (pages 63 – 64)

(1) Beginning January 1, 2022, and annually thereafter:
   (A) If the jurisdiction is using a 2 or 3 bin system, the jurisdiction shall:
   1. Complete a compliance review of all solid waste collection accounts for commercial businesses and that generate two or more cubic yard of solid waste per week and produce organic waste and determine compliance with organic waste generator requirements and self-haul requirements.
   2. Beginning April 21, 2022, the jurisdiction shall either conduct route reviews of commercial businesses and residential generators for compliance with organic waste generator requirements and container contamination requirements or perform waste composition studies consistent with section 18984.5 (c) to verify commercial businesses and residential generators for compliance.
   (B) If the jurisdiction is using the compliance method for unsegregated single container collection system the jurisdiction shall conduct a compliance review of all solid waste collection accounts for commercial businesses and that generate two or more cubic yard of solid waste per week and produce organic waste and determine compliance with organic waste generator requirements and document if the business is transporting the contents to a high diversion organic waste processing facility, and self-haul requirements.
(2) Beginning January 1, 2022, conduct inspections of Tier One commercial edible food generators and food recovery organizations and services. On or after January 1, 2024, conduct inspections of Tier Two commercial edible food generators.
(3) Beginning January 1, 2022, investigate complaints as required under Section 18995.3.
(4) Beginning January 1, 2022, and until December 31, 2023, a jurisdiction shall provide educational material describing the applicable requirements in response to violations.
(5) Beginning January 1, 2024, a jurisdiction shall enforce this chapter in response to violations.
(6) ~~Every 24 months~~ At least every 5 years from the date of issuance verify through inspections that commercial businesses are meeting de minimis and physical space waivers for compliance.

18995.1. (b) A jurisdiction shall conduct a sufficient number of route reviews and inspections to adequately determine overall ensure compliance. (page 64)

18995.1. (c) A jurisdiction shall generate a written or electronic record for each inspection, route review, and compliance review conducted that includes the name or account name of each person or entity, a description of the routes and addresses covered by a route review, and a list of accounts reviewed for each compliance review; the date or dates of the action; the person or persons who conducted the action, the jurisdiction's findings; any relevant evidence or findings; the review records shall include locations of the route review, the source of contamination, photographs, and notice of education material given to generator. (page 64-65)

18995.1. (d) Documentation of route reviews, compliance review, and inspections, as well as all other records enforcement maintained in the Implementation Record. (page 65)

18995.1. (e) A jurisdiction may have a designee conduct inspections required by this section. (page 65)

18995.1. (f) Any records obtained by a jurisdiction during its inspections and review shall be subject to the requirement and applicable disclosure exemptions of the Public Records Act. (page 65)

18995.3. Jurisdiction Investigation of Complaints of Alleged Violations. (a) A jurisdiction shall provide a procedure for the receipt and investigation of written complaints of alleged violations. The jurisdiction shall allow for the submission of anonymous complaints. (page 67)

18995.3. (b) The procedure shall provide that complaints be in writing and include the following information: if the complaint is not anonymous, the name and contact information of the complainant, the identity of the alleged violator, a description of the alleged violation including locations and all other relevant facts known, any relevant photographic or documentary evidence to support the allegations, and the identity of any witnesses, if known. (page 67)

18995.3. (d-f) The jurisdiction shall within 90 days investigate the complaint, provide a method for a complainant to find out the results of the complaint, and shall maintain records of all complaints and responses. (page 67)

18995.4. Enforcement by a Jurisdiction. (a) For violation of this chapter occurring on or after January 1, 2024, the jurisdiction shall take enforcement action, as follow: (page 67-68)

(1) Issue a Notice of Violation (NOV) within 60 days.
(2) Conduct follow-up inspections at least every 90 days until compliance is achieved or a penalty has been issued.
(3) Except as provided in the container commination minimization provisions (Section 18984.5), the jurisdiction shall commence actions to impose a penalty within 150 days after the issuance of the NOV for a first violation and 90 days after any subsequent violation. The commencement of an action against the same entity for the same violation within one year of imposing a penalty for a first offense shall constitute a second or subsequent offense for purposes of penalty calculations.

18995.4. (b) A jurisdiction may extend the compliance deadlines if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable. Extenuating circumstances include acts of God such as ~~inclement weather,~~ earthquakes, wildfires, flooding, and other emergencies or natural disasters; delays in obtaining discretionary permits or other government agency approvals; and deficiencies in organic waste recycling capacity infrastructure or edible food recovery capacity and the relevant jurisdiction is under a Corrective Action Plan. (page 68)

18995.4. (c) The Notice of Violation must contain specific information. (page 68)

~~18995.4. (d) A jurisdiction may seek penalties for a violation of the container contamination requirements, if found on more than three consecutive occasions~~. (page 69)

**Article 16. Administrative Civil Penalties for Violations of Requirements of the Chapter**

18997.1. Scope. (a) Administrative civil penalties for violations of this chapter shall be imposed consistent with the requirements of this Article as authorized by Public Resources Code section 42652.5. (page 79)

18997.1. (b) A jurisdiction shall adopt ordinance(s) or enforceable mechanisms that are prescribed below.

**Table 1, which prescribed the requirements, description of violation, and levels of the violation offense, has been deleted.** (pages 79-82)

18997.2. (a) Penalty Amounts. A jurisdiction shall impose penalties for violations of the requirement consistent with the applicable requirements Government Code Sections 53069.4, 25132, and 36900 as follows: for a first violation, $50-100 per offense; for a second violation, $100-200 per offense; and for third and all subsequent violations, $250-500 per offense. (page 82-83)

18997.2. (b) Nothing in this section shall be construed as preventing a jurisdiction from revoking, suspending, or denying a permit registration, license, or other authorization consistent with local requirement outside the scope of this chapter in addition to the imposition of penalties authorized herein.

18997.3. Department Penalty Amounts. (a) Penalties shall be imposed administratively in accordance with the requirements set forth in this section.

**Tables 1-11, which prescribed the requirements, description of violation, and levels of the violation offense, has been deleted.** (pages 84-99)

18997.3. (b) Penalties, except for the Recovered Organic Waste Product Procurement requirements, shall be assessed as follows: (page 83)

(1) A "Minor" violation means a violation involving minimal deviation from the standards where the entity failed to implement some aspects of a requirement but has otherwise not deviated from the requirement. The penalties shall be no less than $500 dollars or more than $4,000 per violation per day.

(2) A "Moderate" violation means a violation involving moderate deviation from the standards where the entity failed to comply with critical aspects of the requirement but has otherwise not deviated from the requirement. The penalties shall be no less than $4,000 dollars or more than $7,500 per violation per day.

(3) A "Major" violation means a violation that is a substantial deviation from the standards, that may also be knowing, willful, or intentional or a chronic violation by a recalcitrant violator as evidenced by a pattern or practice of noncompliance. The penalties shall be no less than $7,500 dollars or more than $10,000 per violation per day. Major violations shall always be deemed to include:

(A) A jurisdiction fails to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.

(B) A jurisdiction fails to have a provision in a contract, agreement, or to the authorization that requires a hauler to comply with the requirement of this chapter.

(C) A jurisdiction fails to have an edible food recovery program.

(D) A jurisdiction fails to have any Implementation Record.

(E) A jurisdiction implements or enforces an ordinance, policy, procedure, condition, or initiative that is prohibited under the Organic Waste Recovery Standards and Policies (Section 18990.1.) or Edible Food Recovery Standards and Policies (Section 18990.2.).

(F) A jurisdiction fails to report any information to the Department required by the Initial Jurisdiction Compliance Report (Section 18994.1. or the Jurisdiction Annual Reporting (Section 18994.2.)

~~18997.3. (c) using the penalty tables contained in section (b) for Level 1 the penalty range shall be $50-$500 per violation; for Level 2 the penalty range shall be $250-$1,000 per violation; for Level 3 the penalty range shall be $500-$2,500 per violation; for Level 4, the penalty range shall be $500-2,500 per day; for level 5 the penalty range shall be $1,000-5,000 per day; and for Level 5, the penalty range shall be $5,000-10,000 per day.~~

18997.3. (c) Once the penalty range has been determined, the following factors shall be used to determine the amount of the penalty for each violation within that range: (page 99)

(1) The nature, circumstances, severity of the violation.
(2) The violator's ability to pay.
(3) The willfulness of the violator's misconduct;
(4) Whether the violator took measures to avoid or mitigate the violation.
(5) Evidence of any economic benefit resulting from the violation.
(6) The deterrent effect of the penalty on the violator
(7) Whether the violation was due to conditions outside the control of the violator.

18997.3. (d) For violation of the Recovered Organic Product Procurement requirements, the Department shall calculate the jurisdictions daily procurement equivalent and using the total amount of recovered organic waste products procured, determine the number of days a jurisdiction was out of compliance. The penalty amount shall not exceed $10,000 per day.

## Implementation Record (IR) and Recordkeeping Requirements

**General Provisions**

18981.2. General Provisions. (e) A jurisdiction shall include copies of all agreements and contracts with public and private entities it uses to fulfill its responsibilities. (page 4)

**Article 3. Organic Waste Collection Services**

18984.4. Recordkeeping Requirement for Compliance with Organics Collection. (a) A jurisdiction is required to include documentation of which collection method(s) it will use and the geographical area for each collection method. If the jurisdiction uses a service that requires the use of a high diversion organic waste processing facility, it shall list all the HDOWP facilities used and their quarterly and annual average mixed waste organic content recovery rates, a list of all approved haulers, and the geographical areas the hauler(s) serve. If a jurisdiction allows compostable plastics to be placed in the green container or organic waste to be collected in plastic bags, a copy of written notification from each facility that it can recover that material. (page 22)

18984.6. Container Contamination Minimization. (a) A jurisdiction is required to provide a description of the jurisdiction's process for determining the level of container contamination and documentation of the route reviews conducted; if applicable documentation of waste composition studies, including information on targeted route reviews conducted as a result of the studies, the dates of the studies, the location of the solid waste facility where the study was performed, routes, source sector, number of samples, weights and ratio of prohibited container contaminants and total sample size; copies of all written notices, violations, education and enforcement orders issued to generators; and documentation of the number of containers disposed of due to observation of prohibited container contaminants.

(page 26)

18984.14. Waivers and Exemptions. (a) A jurisdiction shall include all correspondence received from a facility that triggered a processing facility temporary equipment or operational failure waiver, the timeframe for the waiver, and location or routes affected by the waiver; description of the jurisdiction's process for issuing waivers and frequency of inspection to verify the validity of the waivers; all de minimis waivers, physical space, and collection frequency waivers, including the location, date issued, and name of generators; a record of the amount of sediment debris from disasters or emergencies that is disposed of on an annual basis; a record of the amount of solid waste from removed from homeless encampments and illegal disposal sites if the total amount of material removed exceeds 100 tons; a copy of all compliance agreements for quarantined organic waste that is disposed, including the name of generator, date issued, location of fila disposition and the amount of organic waste disposed. (page 34)

**Article 4. Education and Outreach**

18985.3. Compliance with Education and Outreach Requirements. A jurisdiction shall include all relevant documents supporting its compliance including copies of the media information provided to comply; dates, type of media, copies of the information and the type and number of accounts receiving the information, and to whom the information was disseminated; copies of materials distributed by any designee, ~~and the number of languages in which the jurisdiction is required to provide information in.~~ (page 37)

**Article 7. Regulation of Haulers**

18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program. (a) A jurisdiction shall include all relevant documents supporting its compliance including copies of ordinances, contracts, agreements, policies, procedures, or programs; description of the hauler program including type of hauler systems used, type and conditions of approvals per type of hauler, and criteria for approvals, denials, and revocations; the jurisdictions process for issuing, revoking, and denying self-hauling and back-hauling; and records of hauler compliance including copies of reports required by haulers, and copies of all written approvals, denials, and revocations. (page 43)

18988.4. (b) All records shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.

**Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery**

18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program. A jurisdiction shall include all relevant documents supporting its compliance including copies of a list of commercial edible food generators in the jurisdiction that have a contract or written agreement with edible food recovery organization or services, a list of edible food recovery organizations and food recovery services in the jurisdiction and their edible food recovery capacity, and documentation of the actions the jurisdiction has taken to increase edible food recovery capacity. (pages 47-48)

**Article 12. Procurement of Recovered Organic Waste Products**

18993.2. Record Keeping Requirements for Recovered Organic Waste Procurement Target. A jurisdiction shall include all documents supporting its compliance including a description of how the jurisdiction will comply; the name physical location, and contact information of each entity, operation, or facility from whom the recovered products were procured, and a general description of how the product was used, and where the product was applied; all records evidencing all procurement; all records of procurements made by direct service providers on behalf of the jurisdiction; and if applicable, a written certification by

an authorized representative of a POTW of the tons of landfill-diverted organic waste processed into renewable gas provided to the jurisdiction. (Page 57)

(6) If a jurisdiction will include electricity procured from a biomass conversion facility, a written certification from the facility that biomass feedstock is sourced from a permitted solid waste facility shall be provided. (page 57)
(7) If the jurisdiction is implementing adjusted recovered organic waste product procurement from a previous year, evidence the total volume of products procured from the prior reporting period. (page 58)
(8) For jurisdictions complying through the procurement of mulch, a copy of the enforceable mechanism the jurisdiction has adopted requiring that mulch procured by the jurisdiction or a direct service provider meets the specified land application standards. (page 58)

18993.4. Recordkeeping Requirement for Recycled Content Paper Procurement. A jurisdiction shall include all documents supporting its compliance including copies of invoices and receipts for all paper purchases and copies of all certification or verifications required. (page 59)

**Article 14. Enforcement Requirements**
18995.2. Implementation Record and Recordkeeping Requirements. (a-e) A jurisdiction shall maintain the Implementation Record that shall be stored in one central location, physical or electronic, that can be readily accessed by the Department; shall provide access to the IR within 10 business days; include all records and information from each reporting period, within 60 days of the last day of the reporting period; and be retained by the jurisdiction for five years. (page 65-66)

18995.2. (f) At a minimum, the IR shall include a copy of all enforceable mechanisms; a copy of the jurisdiction's inspection and enforcement program, all organic waste collection service records, all contamination minimization records, all waiver and exemption records, all education and outreach records, all hauler program records, all jurisdiction edible food recover program records, all recovered organic waste procurement target records, all recycled content paper procurement records, all inspection, rout review, an compliance review reports, all records of enforcement action, all records of complaints and investigation of complaints and compliance with the jurisdiction's inspection and enforcement requirement. (page 66)

**Reporting Requirements**

**Article 13. Reporting**
18994.1. Initial Jurisdiction Compliance Report. Each jurisdiction shall report to the Department by April 1, 2022 on its implementation and compliance with the requirements of this chapter including a copy of enforceable mechanisms adopted to implement the requirements, all reporting items listed in a jurisdiction's annual report, and contact information for the compliance-related responsible person. (page 59)

18994.2. Jurisdiction Annual Reporting. (a) Commencing August 1, 2022 and annually thereafter a jurisdiction shall submit an annual report. The first report shall cover the period of January 1, 2022 – June 30, 2022 and is due October 1, 2022. Each subsequent report shall cover the entire previous year.

Each jurisdiction shall report the following:
(b) Relative to the organic waste collection services: the type of organic waste collection services provided to its generators, the total number of generators receiving each type of organic waste collection service,

and the RDRS Number of any high diversion organic waste processing facility it uses. If the jurisdiction allows placement of compostable plastic in green containers or organic waste to be collected in plastic bags, notices from each facility that accepts and recovers that material. (page 60)

(c) Relative to contamination monitoring: the number of route reviews conducted for container contaminants; the number of times notices, violations, or targeted education material were issued; ~~the number of notifications received from a solid waste facility operator regarding container contaminants received at the facility~~, and the results of waste composition studies performed to meet the container contamination minimization requirement and resulting targeted route reviews. (page 60)

(d) Relative to waivers: the number of days an emergency circumstances waiver in effect ant the type of waiver issued, the tons of organic waste that were disposed as a result of waivers, the number of generators issued a physical space waiver, the number of generators waived by the department from the requirements of organic waste collection service. (page 60)

(e) Regarding education and outreach: the number of organic waste generators and edible food generators that received information and the type of education and outreach use ~~and the number of limited English speaking and linguistically isolated households that received information~~. (page 61)

(f) Regarding the hauler oversight requirements: the number of haulers approved to collect organic waste, the RSRS number of each facility that is receiving organic waste from haulers, and the number of haulers that have had their approval revoked or denied~~, and the number of self-haulers approved to operate within the jurisdiction~~. (page 61)

(g) Regarding the CALGreen Building Standards: the number of Construction and Demolition removal activities conducted; and the Model Water Efficient Landscape Ordinance: the number of projects subject to the ordinance. (page 61)

(h) Regarding the edible food recovery: the number of commercial edible food generators, the number of food recovery services and organizations that contract with or have written agreements with commercial edible food generators, and the total amount of edible food recovered by edible food recovery organizations and services. (page 61)

(i) Regarding the organic waste recycling capacity planning and edible food recovery capacity planning: the tons estimated to be generated for disposal, the amount of capacity verifiably available to the county and jurisdictions within the county, the amount of new capacity needed, the location identified for new or expanded facilities, the jurisdictions that are required to submit implementation schedules, and the jurisdictions that did not provide information required to the county within 120 days. (page 62)

(j) Regarding the procurement requirements: the amount of each recovered organic waste product procured directly or through direct service providers by the county or cities during the prior calendar year, ~~the total dollar amount spent on all paper purchases, the total dollar amount spend on all recycled content paper purchases~~, the total amount of transportation fuel, electricity, and gas for heating applications ~~and pipeline injection~~ procured from the previous year if the jurisdiction procures a reduced amount pursuant to section 18993.1. (j), and additional procurement opportunities identified within the jurisdiction's departments. (page 62)

(k) Regarding compliance, monitoring, and enforcement: the number of commercial businesses subject to compliance reviews and the number of violations found and corrected; the number or route reviews conducted; the number of inspections conducted by type for commercial edible food generators, food recovery organizations, and commercial businesses; the number of complaints received, investigated, and violations found; and the number of NoVs and penalties issued by type of entity, and the number of enforcement actions that were resolved categorized by type of regulated entity. (pages 62-63)

## Alternative Method for Jurisdictions to Provide Solid Waste Collection Services

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**Article 17: Performance-Based Source-Separated Organic Waste Collection Service**
18998. Applicability. This article specifies the requirements for an alternative method for jurisdictions to provide solid waste collection service. The intent is to provide streamlined requirements as an incentive for those jurisdictions that implement collection services designed to achieve high-efficiency performance in recovery of organic waste. Jurisdictions that comply with the requirements of this chapter shall be relieved of compliance with particular regulatory requirements elsewhere in this chapter. (page 102)

18998.1. Requirement s for Performance-Based Source Separated Collection Service. (a) If a jurisdiction implements a performance-based source separated organic waste collection service it shall: (page 103)
(1) Provide a three-container organic waste collection service to at least 90 percent of the commercial and residential sector.
(2) Transport the contents of the SS organic waste collection stream to a designated SS organic waste facility.
(3) Ensure that the presence of organic waste in the gray container collection stream does not exceed an annual average of 25 percent by weight.
(4) Provide collection service to organic waste generators subject to their authority.
(5) Notify the Department.

18998.1. (b) Jurisdictions that delegate collection services to a designee shall include their contract or agreements with the designee a requirement that all haulers transport the SS organic waste to a designated SS organic waste facility. (page 103)

18998.1. (c) If a jurisdiction fails to meet requirements of this section, the jurisdiction shall implement an organic waste collection service that complies with the requirements of Article 3. The jurisdiction shall be subject to the applicable enforcement processes until services that comply are provided to generators. (page 103)

18998.1. (d) A hauler providing a performance-based SS collection service is not required to comply with the provision of section 18988.2, Haulers of Organic Waste Requirements (page 41), but shall comply only transport the SS organic Waste collection stream to a designated SS organic waste recycling facility and keep a record of the documentation of its approval by the jurisdiction. (page 104)

18998.2. Compliance Exceptions. If a jurisdiction implements a performance-based SS collection service that meets the above requirements, the jurisdiction shall not be subject to the following: (pages 104-105)
(1) The collection requirement in sections 18984.2. and 18984.3 (two container and unsegregated container requirements).
(2) The container labeling requirements in section 18984.8, and waivers in section 18984.11, Waivers Granted by a Jurisdiction.
(3) The recordkeeping requirements in section 18984.8 and 18984.14, Recordkeeping Requirements for Compliance with Organic Waste Collection Services and for Waivers and Exemptions.
(4) The organic waste recovery education and outreach requirements in section 18985.1.

(5) The recordkeeping requirement in section 18985.3, Recordkeeping requirements for a Jurisdiction's Compliance with Education and Outreach Requirements, except the provisions related to edible food recovery.
(6) The regulation of hauler in Article 7.
(7) The jurisdiction annual reporting requirements in section 18994.2 (c)(1)-(2), (d)-(f) and (k).
(8) The jurisdiction inspection and enforcement requirements in section 18995.1, except for the provisions related to edible food generators and food recovery organizations and services.
(9) The implementation record in section 18995.2 (f)(3)-(7), all organic waste collection service records, contamination minimization records, waiver and exemption records education and outreach records, and hauler program records. Implementation records requirements in section 18995.2 (f) (11)-(13), inspections and compliance review documents, enforcement actions, and records of complaints and investigations, shall only be required in enforcement related to edible food generators and food recovery organization and services.
(10) The jurisdiction investigation of complaints of alleged violation requirement in section 18995.3, except as it pertains to entities subject to the edible food recovery requirement of Article 10.
(11) The jurisdiction enforcement requirements n section 18995.4, except as it pertains to entities subject to the edible food recovery requirement of Article 10.

18998.3. Notification to Department. (a) and (b) A jurisdiction that will implement a performance-based SS collection service in 2022 shall notify the Department on or before January 1, 2022. A jurisdiction that will implement a performance-based SS collection system in any subsequent year shall notify the Department on or before January 1 of that year with specific information. (page 105)

18998.3. (c) In the initial report to the Department required in section 18994.1, a jurisdiction implementing a performance-based SS organic waste collection service shall certify that at least 90 percent of the commercia businesses and residential sector are enrolled in a collection service that complies with this article. (page 106)

18998.4. Recordkeeping. A jurisdiction implementing a performance-based SS organic waste collection service shall maintain the following information and document in the IR required by section 18995.2: (pages 106-107)
(a) The geographical areas each designee serves.
(b) If a designee is used, a cop of the contract or agreement for each designee specifying the requirement that all haulers transport the SS organic waste to a designated SS organic waste facility.
(c) Specific records evidencing compliance with section 18998.1 (a), the requirements for a performance-based SS organic waste service.
(d) Specific records specified in Section 18995.2 (refer to page 66), (f)(1), (f)(2) and (6) as they pertain to the edible food recovery requirements, (f)(8)-(10), and (f) (11)-(13) as they pertain to the edible food recovery requirements.

## Generators

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**Article 3. Organic Waste Collection Service**
18984.9. Organic Waste Generator Requirements. (a) Organic waste generators shall subscribe to the organic waste collection service provided by the jurisdiction or self-haul organic waste in a manner that complies with the requirements of Article 7, Regulations of Haulers. (page 28)

18984.9. (b) Commercial businesses (excluding multifamily residential dwellings) shall provide containers meeting the color and labeling requirements of Sections 18984.7 and 18984.8 (page 17) for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms; prohibit employees from placing organic waste in wrong containers; and periodically inspect organic waste containers for contamination and inform employees if contamination is found and of proper disposal requirements. (page 28)

18984.9. (d) A commercial business is not required to replace functional containers that do not comply with the requirements of this article prior to the end of the useful life or January 1, 2036, whichever comes first. (page 28)

18984.9. (e) If a business does not generate any of the materials that would be collected in one type of container the business does not have to provide that particular container. (page 28)

### ~~Property and~~ Business Owners Responsibilities

**Article 3. Organic Waste Collection Service**
18984.10. Business Owners Responsibilities. Commercial businesses ~~Property owners that are not single family units, and business owners~~ shall provide or arrange for organic waste collection services for employees, contractors, tenants, and customers; shall annually provide information to employees, contactors, tenants, and customers about organic waste recovery and proper sorting of organic waste; provide information to new tenants within 14 days of occupation of the premises; and provide or arrange for access to their properties during all inspections. This subdivision is not intended to permit an employee or agent of the Department jurisdiction to enter the interior of a private residential property. (page 29)

### Non-Local Entities

**Article 5. Generators of Organic Waste**
18986.1. Non-Local Entities Requirements. Non-local entities shall comply with the requirements of this chapter by subscribing to and complying with the requirements of an organic waste collection service or self-hauling organic waste in a manner that complies with the requirements of Article 7, Regulations of Haulers, provide containers for the organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms; prohibit employees from contamination; periodically inspect containers for contamination and inform employees if contaminated; and provide information to employees on organic waste prevention. (pages 37-38)

18986.3. Waivers for Non-Local entities and Local Education Agencies. The Department shall waive a non-local entity's or local education agency's obligation to comply with organic waste collection service requirements if it meets the de minimis or space waiver specifications of 18984.11 or it is located in a jurisdiction that has been granted a department waiver pursuant to 18984.12. (page 39)

**Article 15. Enforcement Oversight by the Department**

18996.6. Department Enforcement Action Regarding State Agencies ~~and Facilities~~. If the Department finds that a state agency or facility is violating these provisions, the Department may issue a NOV requiring compliance within 90 days and may grant up to an additional 180-day extension if evidence is provided that additional time is needed. (page 74)

18996.6. (2) If the Department finds a state agency fails to comply with the Notice of Violation (NOV), the Department may take the following enforcement actions: list the state agency on the Organic Waste Recovery Noncompliance Inventory on the Department's website, ~~request that the Department of General Service (DGS) conduct an audit~~, notify the Governor, and notify the legislature. (page 75)

**Local Education Agencies**

**Article 5. Generators of Organic Waste**

18986.2. Local Education Agencies Requirements. (a-e) Local education agencies shall comply with the requirements of this chapter by subscribing to and complying with the requirements of an organic waste collection service or self-hauling organic waste in a manner that complies with the requirements of Article 7, Regulations of Haulers; provide containers for the organic waste and non-organic recyclables in all areas where disposal containers are located, except bathrooms; prohibit employees from contamination; periodically inspect containers for contamination and inform employees if contaminated; and provide information to employees on organic waste prevention. (pages 38-39)

18986.2. (f) nothing prohibits a local education agency from preventing waste generation, managing organic waste on site, using a community composting site. (page 39)

18986.3. Waivers for Non-Local entities and Local Education Agencies. The Department shall waive a non-local entity's or local education agency's obligation to comply with organic waste collection service requirements if it meets the de minimis or space waiver specifications of 18984.11 or it is located in a jurisdiction that has been granted a department waiver pursuant to 18984.12. (page 39)

**Article 9. Locally adopted Standards and Policies**

18990.2. Edible Food Recovery Standards and Policies. (b) A local education agency shall not prohibit share tables or adhere to food safety standards not specified in the Health and Safety Code. (page 45)

**Article 15. Enforcement Oversight by the Department**

18996.7. Department Enforcement Action Regarding Local Education Agencies and Federal Facilities. If the Department finds that a local education agency or federal facility is violating these provisions, the Department may issue a NOV requiring compliance within 90 days and may grant up to an additional 180-day extension if evidence is provided that additional time is needed. If the local education agency or federal facility fails to comply, the Department may list the local education agency or federal facility on the Organic Waste Recovery Noncompliance Inventory on the Department's website. (page 75-76)

## Publicly Owned Treatment Works (POTW)

**Article 6. Biosolids Generated at a POTW**

18987.1. Biosolids Generation a POTW (a) A POTW generating biosolids is not subject to the generator, diversion and measurement, or record keeping and reporting requirements of this chapter. (page 40)

18987.1. (b) Material received at a POTW that it is not allowed to accept shall be deemed to constitute landfill disposal. (page 40)

## Edible Food Generators

**Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery**

18991.3. Commercial Edible Food generators. (a) Tier One commercial edible food generators shall comply with the requirements commencing January 1, 2022. Tier Two commercial edible food generators shall comply with the requirements commencing January 1, 2024. (page 46)

18991.3. (b) Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed through a contractor written agreement with food recovery organizations or services that will collect the food for recovery or self-hauling edible food to a food recovery organization that will accept the food for recovery. (pages 46-47)

18991.3. (c) A large venue or event operator that does not provide food services, but allows for food to be provided, shall require food facilities operation at the event to comply with the requirements of this section. (page 47)

18991.3. (d) A commercial edible food generator shall comply with the requirements of this section unless the generator demonstrates the existence of extraordinary circumstances beyond its control which make such compliance impracticable, which are a failure by the jurisdiction to increase edible food recovery capacity and acts of God such as ~~inclement weather~~, earthquakes, wildfires, flooding, and other emergencies or natural disasters. (page 47)

18991.3. (d) An edible food generator shall not intentionally spoil edible food that is capable of being recovered. (page 47)

18991.4. Recordkeeping Requirements for Commercial Edible Food Generators. A commercial edible food generator subject to these requirements shall keep that includes a list of each food recovery service or organization that collects or receives its edible food, a copy of documents between the edible food generator and a food recovery service or organization with the name address and contact information of the service or organization, the types of food that is collected by or transported to the service or organization, the established frequency that food is collect or transported, and the quantity measured in pounds per month of food collected or transported to a service or organization. (page 47)

18991.5. Food Recovery Services Organizations. (a) A food recovery organization or service that has established a contract or written agreement to collect or receive edible food directly from commercial edible food generators shall maintain a record that includes the name, address and contact information for each edible food generator that it collects or receives food from, the quantity in pounds of edible food collected from each commercial generator per month, the quantity in pounds of edible food transported to each recovery organization per month, and the name address, and contact information for each food recovery organization that the service transports food for recovery. (page 48)

18991.5. (a) (2) A food recovery organization shall maintain a record of the name, address and contact information for each commercial edible food generator that the organization receives edible food from; the quantity in pounds of edible food received from each commercial edible food generator per month; and the name address and contact information for each food recovery service that the organization receives edible food from for recovery. (page 48)

# Haulers

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**General Provisions**
18981.2. Implementation Requirements on Jurisdictions. (a) By January 1, 2022, a jurisdiction shall adopt an enforceable mechanism to mandate that organic waste generators, haulers, and other entities under its jurisdiction comply with the requirements of this chapter. (page 3)

18981.2. (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. (page 3)

**Article 3. Organic Waste Collection Service (see pages 3 and 4 for specific container requirements)**
18984.5. Container Contamination Minimization. (a) A jurisdiction shall monitor the 3 and 2 container collection service to minimize prohibited contaminants in a manner that complies with either subdivision (b) or (c) of this section. (1) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service pursuant to Section 18998.1 shall monitor containers through the method specified in the provision of Subdivision (c). (pages 23-25)

18984.5. (b) A jurisdiction may meet its container contamination minimization requirements by conducting route reviews for prohibited contaminants with all hauler routes being reviewed annually. Containers may be randomly selected along a hauler route. This section should not be construed to require that every container on a hauler route must be sampled annually.

(1) If contaminants are found in a generator's container, the jurisdiction notify the generator of the violation, which may be left on the container, gate, or door and/or be mailed or emailed and shall include information on the requirements to properly separate materials.
(2) If contaminants are found in the green or blue container, the contents may be disposed.
(3) If contaminants are found on more than three consecutive occasions, the jurisdiction may impose additional contamination processing fees and may impose penalties.
(4) If the jurisdiction designates container contamination monitoring requirements to a designee, and the designee observes container contaminants, the designee shall inform the jurisdiction in writing, each month, with the address of the generator and the date the contamination was observed. A designee may only dispose of a container with visible prohibited container contaminants in accordance with a contract or other written arrangement between the jurisdiction and the designee.

18984.5. (c)(1)(A) A jurisdiction may meet its container contamination minimization requirements by conducting waste evaluations that meet the following standards. Conduct waste evaluations of the green and blue containers twice per year in different seasons. (pages 24-26)

(1)(B) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service pursuant to Section 18998.1 shall conduct waste composition studies at least twice per year for the blue and green containers and once per quarter for the gray container.

(1)(C) Samples shall be taken for each container type served by the jurisdiction that are representative of the jurisdiction waste stream ~~and account for no less than 0.5% of the weekly tonnage collected~~.
(1)(D) The number of samples is determined by the number of generators on the route according to the following:

| Route customers | Minimum samples |
|---|---|
| <1,500 | 25 |
| 1,500-3,999 | 30 |
| 4,000-6,999 | 35 |
| >7,000 | 40 |

(1)(E) Samples must be transported to a permitted solid waste facility sorting area to determine the ratio of contaminants for each container type by weight. For each container type, all samples are emptied in a pile on the sorting area. A 200-pound sample is randomly selected from different areas of the pile, contaminants removed and weighed, and the ratio determined.

(2) If contamination exceeds 25% for any container type, the jurisdiction shall notify all generators on the sampled hauler route to properly separate materials or perform targeted route reviews and notify the specific generators to properly separate materials.

18984.5. (d) A jurisdiction that notifies the department that it intends to implement a performance-based source separated collection service shall notify the department within 30 days of conducting two consecutive gray container samples that each demonstrate prohibited container contaminants in the gray container exceed 25 percent. (page 25-26)

18984.5. (e) A jurisdiction that implements a performance-based source separated collection service shall, upon request, allow a representative of the department to oversee its next scheduled quarterly sampling of the gray container. (page 26)

18984.5. (f) For the purposes of demonstrating compliance with the requirements of performance-based source separated collection service, organic waste that is textiles, carpet, hazardous wood waste, human waste, pet waste, or material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste. (page 26)

**Article 4. Education and Outreach**

18985.1. Organic Waste Recovery Education and Outreach. (d) A jurisdiction may comply with the requirements through its haulers. (page 35)

18985.1. Organic Waste Recovery Education and Outreach. (a), (b), and (c) Prior to February 1, 2022 and annually thereafter, a jurisdiction shall provide specific information to organic waste generators on the proper segregation for the type of collection service provided, methods for prevention and recycling, methane reduction benefits, public health, safety and environmental impacts, through print or electronic media or direct contact through workshops, meetings, or on-site visits. (page 34-35)

18985.1. (e) Consistent with Section 7295 of the Government Code jurisdictions shall translate education materials required by this chapter into any non-English language spoken by a substantial number of the public provided organic waste collection services by the jurisdiction. (The determination of when these materials are necessary when dealing local agencies shall be left to the discretion of the local agency.) (page 35)

**Article 7. Regulations of Haulers**

18988.1. Jurisdiction Approval Haulers and Self-Haulers. (a) A jurisdiction shall require haulers to meet the requirements and standards and to identify the facilities to which they will transport the organic waste as a condition of approval to collect organic waste. (page 40-41)

18988.1. (b) If a jurisdiction allows generators to self-haul organic waste, it shall adopt an enforceable mechanism that requires compliance with the requirements for self-haulers.

18988.1. (d) Jurisdictions that are exempt from the organic waste collection requirements and haulers and self-haulers operating or located within exempt areas of these jurisdictions, are not required to comply with the provision of this article for the duration of an exemption. (page 41)

18988.2. Hauler of Organic Waste Requirements. (a) A hauler providing organic waste collection services shall transport the organic waste to a facility, operation, activity or property that recovers organic waste, obtain approval issued by the jurisdiction, and keep a record of the jurisdictional approval.

18988.2. (c) This section is not applicable to transporting source separated organic waste to a community composting site or lawfully transporting construction and demolition debris. (page 21)

**Article 14. Enforcement Requirements**

18995.1. Jurisdiction Inspection and Enforcement Requirements. (e) A jurisdiction may have a designee conduct inspections required by this section.

18995.1. Jurisdiction Inspection and Enforcement Requirements. (a) By January 1, 2022, a jurisdiction shall have an inspection and enforcement program that includes: (pages 63 – 64)

(1) Beginning January 1, 2022, and annually thereafter:
   (A) If the jurisdiction is using a 2 or 3 bin system, the jurisdiction shall:
   1. Complete a compliance review of all solid waste collection accounts for commercial businesses and that generate two or more cubic yard of solid waste per week and produce organic waste and determine compliance with organic waste generator requirements and self-haul requirements.
   2. Beginning April 21, 2022, the jurisdiction shall either conduct route reviews of commercial businesses and residential generators for compliance with organic waste generator requirements and container contamination requirements or perform waste composition studies consistent with section 18984.5 (c) to verify commercial businesses and residential generators for compliance.
   (B) If the jurisdiction is using the compliance method for unsegregated single container collection system the jurisdiction shall conduct a compliance review of all solid waste collection accounts for commercial businesses and that generate two or more cubic yard of solid waste per week and produce organic waste and determine compliance with organic waste generator requirements and document if the business is transporting the contents to a high diversion organic waste processing facility, and self-haul requirements.
(2) Beginning January 1, 2022, conduct inspections of Tier One commercial edible food generators and food recovery organizations and services. On or after January 1, 2024, conduct inspections of Tier Two commercial edible food generators.
(3) Beginning January 1, 2022, investigate complaints as required under Section 18995.3.
(4) Beginning January 1, 2022, and until December 31, 2023, a jurisdiction shall provide educational material describing the applicable requirements in response to violations.

(5) Beginning January 1, 2024, a jurisdiction shall enforce this chapter in response to violations.
(6) ~~Every 24 months~~ At least every 5 years from the date of issuance verify through inspections that commercial businesses are meeting de minimis and physical space waivers for compliance.

18995.1. (b) A jurisdiction shall conduct a sufficient number of route reviews and inspections to adequately determine overall ensure compliance. (page 64)

18995.1. (c) A jurisdiction shall generate a written or electronic record for each inspection, route review, and compliance review conducted that includes the name or account name of each person or entity, a description of the routes and addresses covered by a route review, and a list of accounts reviewed for each compliance review; the date or dates of the action; the person or persons who conducted the action, the jurisdiction's findings; any relevant evidence or findings; the review records shall include locations of the route review, the source of contamination, photographs, and notice of education material given to generator. (page 64-65)

18995.1. (d) Documentation of route reviews, compliance review, and inspections, as well as all other records enforcement maintained in the Implementation Record. (page 65)

18995.1. (f) Any records obtained by a jurisdiction during its inspections and review shall be subject to the requirement and applicable disclosure exemptions of the Public Records Act. (page 65)

**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 (AB 901 requirements)**
18815.4. Reporting Requirements for Haulers. (f) Commencing January 1, 2022, a hauler providing organic waste collection service shall identify for all materials delivered to each receiving reporting entity whether the material is collected from a source separated or a mixed waste organic waste collection stream. (page 156)

**Self-Haulers**

**Article 7. Regulations of Haulers** (page 42)
18988.3. Self-Haulers of Organic Waste. (b) (1) If a jurisdiction allows self-hauling, the generator shall source separate organic waste consistent with these requirements or haul organic waste to a high diversion organic waste processing facility

18988.3. (b)(2) The generator shall haul source separated organic waste to a solid waste facility, operation, activity, or property that processes or recovers source separated organic waste.

18988.3. (b)(3) Generators shall keep a record of the amount of organic waste delivered to each facility, including delivery receipts and weight tickets (if the entity has scales), indicate the amount of material in cubic yards or tons transported by the generator to each entity, and annually report the total amount of source separated organic waste in tons that was self-hauled and the location or address of each entity that accepted the organic waste from the generator.

18988.3. (b)(4) A residential organic waste generator that self-hauls organic waste is not required to record or report the above information.

18988.3. (c) A self-haul generator located in a jurisdiction or area that received a waiver is not required to comply with the requirements of this section.

# Transfer/Processing Operations and Facilities

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 3: Minimum Standards for Solid Waste Handling and Disposal**

**Article 6.2. Operating Standards**
17409.5.1. Organic Waste Recovery Efficiency (a) This section applies to transfer and processing facilities and operations that conduct processing activities. (page 121)

17409.5.1. (b) For purposes of compliance with the reporting requirements and demonstrating that a facility is a "high diversion processing facility" that meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent by 2022 and 75 percent by 2025, (c) the operator shall: (page 121)

(1) Determine the sum of outgoing weights of organic waste recovered from the mixed waste organic collection stream by adding together the weights pursuant to 17409.5.2(b)(6) for each operating day that measurements were conducted during the reporting period.
(2) Determine the sum of outgoing weights of organic waste removed from the mixed waste organic collection stream for disposal by adding together the weights as measured pursuant to 17409.5.3(b)(5) for each operating day that measurements were conducted during the reporting period.
(3) Report the sums to the Department.

17409.5.1. (d), the operator shall additionally: (page 122)

(1) Determine the sum of outgoing weights of organic waste recovered from the source separated collection stream by adding together the weights determined pursuant to 17409.5.4(b)(6) for each operating day that measurements were conducted during the reporting period.
(2) Determine the sum of outgoing weights of organic waste removed from the source separated collection stream that is sent for landfill disposal by adding together the weights determined pursuant to 17409.5.4(b)(5) for each operating day that measurements were conducted during the reporting period.
(3) Report the sums to the Department.

17409.5.1. (e), the operator shall maintain records of compliance. (page 122)

17409.5.2. Measuring Organic Waste Recovered from Mixed Waste Organic Collection Stream (a) The operator of an attended facility shall measure the amount by weight of organic waste separated from the mixed waste organic collection stream after processing for end-use, recovery, or further processing.

(1) The measurements shall be conducted at the following frequency:
(A) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.
(B) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (1) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (2) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be

performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days. (page 122)

(b) The operator shall comply by using the following protocol: (pages 122-123)

(1) On each sampling day, take one sample of at least 200 pounds from each organic waste type separated after processing, representative of a typical operating day and taken either from various times of the day or from various locations within each pile of each of the organic waste types separated after processing, prior to sending to its destination.

(2) Record the weight of each sample from each organic waste type. If the total weight of a single organic waste type processed in a single operating day is less than 200 pounds, the operator shall sample all of the organic waste type.

(3) Remove any incompatible material and determine the remaining weight of organic waste for each sample.

(4) Determine a ratio for each type of organic waste by dividing the total weights from (b)(3) by the total weights recorded in (b)(2).

(5) Multiply the ratio for each type of organic waste by the total weight of all of the same type of organic waste separated after processing for its destination.

(6) Determine the total weight of organic waste separated from the mixed waste organic collection stream by adding the sum of all the weights calculate in (b)(5).

17409.5.2. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the A may require the operator to increase the frequency of measurements and/or revise the protocol or both to improve accuracy. (page 123)

17409.5.2. (e) If the operator sends any material to a POTW that is not authorized to receive, that material shall be deemed landfill disposal and the total weight of that material shall be added to the value calculated pursuant to Section 17409.5.3. (page 123)

17409.5.3. <u>Measuring Organic Waste in Material Removed from Mixed Waste Organic Collection Stream for Disposal.</u> (a) The operator of an attended facility that accepts a mixed waste collection stream shall measure the amount by weight of organic waste present in the material removed from the mixed waste organic collection stream after processing that is sent to disposal. (page 123)

(1) The measurements shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.

(B) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (1) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (2) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply by using the following protocol: (page 124)

(1) On each sampling day take one sample of at least 200 pounds of the material removed from the mixed waste stream on that operating day prior to sending to disposal, representative of a typical operating day and taken either from various times of the day or from various locations within the piles of material sent to disposal.

(2) Record the total weight of the sample. If the total weight of a single organic waste type processed in a single operating day is less than 200 pounds, the operator shall sample all of the organic waste type.

(3) Remove any incompatible material and determine the remaining weight of organic waste in the sample.
(4) Determine the ratio of the organic waste in the materials removed from the mixed waste organic collection stream for disposal by dividing the total weight from (b)(3) by the total weight recorded from (b)(2).
(5) Determine the total weight of organic waste removed from the mixed waste organic collection stream that is sent to disposal by multiplying the ratio determined in (b)(4) by the total weight of the materials removed from the stream.

17409.5.3. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 124)

17409.5.3. (e) The operator shall maintain records of measurements and the training of personnel in evaluation the amount of organic waste in the residual material. (page 125)

17409.5.3. (f) For the purposes of this section "disposal" has the same meaning as "activities that constitute landfill disposal" as defined in Section 18982. (page 125)

17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste (a) The operator shall measure the amount by weight of organic waste separated from the source separated organic waste collection stream after processing for end-use, recovery, or further processing. (page 125)
(1) The measurements shall be conducted at the following frequency:
(A) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.
(B) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (1) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (2) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days.
(b) The operator shall comply by using the following protocol: (pages 125-126)
(1) On each sampling day, take one sample of at least 200 pounds from each organic waste type separated after processing on that operating day, representative of a typical operating day and taken either from various times of the day or from various locations within each pile of each of the organic waste types separated after processing, prior to sending to its destination.
(2) Record the weight of each sample from each organic waste type. If the total weight of a single organic waste type processed in a single operating day is less than 200 pounds, the operator shall sample all of the organic waste type.
(3) Remove any incompatible material and determine the remaining weight of organic waste for each sample.
(4) Determine a ratio for each type of organic waste type by dividing the weight from (b)(3) by the weight recorded from (b)(2).
(5) Multiply the ratio for each type of organic waste by the total weight of all of the same type of organic waste separated after processing for its destination.
(6) Determine the total weight of organic waste separated from the mixed waste organic collection stream by adding the sum of all the weights calculate in (b)(5).

17409.5.4. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy. (page 126)

17409.5.2. (e) If the operator sends any material to a POTW that is not authorized to receive, that material shall be deemed landfill disposal and the weight of that material shall be added to the total weight calculated pursuant to Section 17409.5.3. (page 126)

17409.5.5. Measuring Organic Waste in Materials Removed from Source Separated Organic Waste Collection Stream for Disposal. a) The operator shall measure the amount by weight of organic waste present in the materials removed from the source separated organic collection stream after processing that is sent to disposal: (page 126-127)

(1) The measurements shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.

(B) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (1) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (2) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply by using the following protocol: (page 127)

(1) On each sampling day, take one sample of at least 200 pounds materials removed from the source separated organic waste stream prior to sending to disposal, representative of a typical operating day and taken either from various times of the day or from various locations within the pile of material that will be sent to disposal.

(2) Record the total weight of the sample. If the total weight of a single organic waste type processed in a single operating day is less than 200 pounds, the operator shall sample all of the organic waste type.

(3) Remove any incompatible material and determine the remaining weight of organic waste in the sample.

(4) Determine the ratio of the organic waste in the materials by dividing the total from (b)(3) by the total weight recorded in (b)(2).

(5) Determine the total weight of organic waste removed from the source separated waste organic collection stream that is sent to disposal by multiplying the ratio determined in (b)(4) by the total weight of the materials removed from the stream for disposal.

17409.5.3. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy. (page 127)

174095.3. (f) For the purposes of this section "disposal" has the same meaning as "activities that constitute landfill disposal" as defined in Section 18982. (page 127)

17409.5.6. Source Separated Organic (SSO) Waste Handling. (a) Source separated organic waste processing shall be kept separate from other solid waste streams. (page 128)

(1) Remnant organic material separated from the gray container collection stream for recovery can be combined with the organic material removed from the source separate organic waste collection stream for recovery once that material has gone through the measurement protocol in section 17409.5.4.
(2) Construction and Demolition Debris shall be kept separate from the source separated organic waste collection stream and the mixed waste organic collection stream and shall not be included in the measurements required pursuant to 17409.5.1-17409.5.5 and 17409.5.8.

17409.5.6. (b) Source separated organic waste and organic waste removed from a mixed waste organic collection service for recovery shall be:
(1) Stored away from other activity areas in specified, clearly identifiable areas as described in the Facility Plan or Transfer/Processing Report; and
(2) Removed from the site and transported only to another solid waste facility or operation for additional processing, composting, in-vessel digestion, or together recovery or used in a manner approved by local, state, and federal agencies having appropriate jurisdiction.

17409.5.7 Gray Container Waste Evaluation (*The daily loadchecking every 500 tons of source separated organic waste received was deleted.*) (page 129)
(a) Commencing July 1, 2022, the operator of an attended operation or facility that receives a gray container collection stream, and more than 500 tons of solid waste from at least one jurisdiction annually, shall conduct waste evaluations of the gray container collection stream consistent with this section.
(b) The operator shall perform one gray container waste evaluation per quarter.
(c) The operator shall use the following measurement protocol to comply with this section: (page 129)
  (1) Take one random, composite sample taken from various times during the operating day, representative of an operating day, of at least 200 pounds from the incoming gray container collection stream received by the facility.
  (2) Record the weight of the sample.
  (3) Remove any remnant organic material and determine the weight of that remnant organic material.
  (4) Then determine the ratio of remnant organic material in the sample.
(d) Upon written notification to the applicable EA, the operator may conduct offsite gray container waste evaluations at an alternative, permitted or authorized solid waste facility or operation provided that the operator does not process the material prior to its transfer offsite for the waste evaluation. (page 130)
(e) The operator shall conduct a measurement in the presence of the EA when requested. (page 130)
(f) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may require the operator to increase the frequency of measurements, revise the measurement protocol, or both to improve accuracy. (page 130)
(g) The operator shall maintain records of waste evaluations and the training of personnel in evaluating the amount of remnant organic material. The records shall be maintained for 5 years and be available for review by appropriate and authorized regulatory agencies. (page 130)

17409.5.8. Incompatible Materials Limit in Recovered Organic Waste. (a) A transfer/processing facility or operation shall only send offsite that organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream that meets the following requirements: (page 131)
(1) On and after January 1, 2022 with no more than 20 percent of incompatible material by weight; and

(2) On and after January 1, 2024 with no more than 10 percent of incompatible material by weight

17409.5.8. (b) Using the samples taken from the MW and SSO waste streams, remove incompatible materials and determine the ratio of incompatible material for each type of organic waste, multiply the ratio for each type of organic waste by the total weight of all of the same type of organic waste, add the sum of all the incompatible materials, determine the ratio of incompatible materials by dividing the sum of the outgoing weight of the recovered waste stream and multiply by 100. (page 132)

17409.5.8. (c) The recovered organic waste stream shall not be subject to (a) if it is sent to the listed specific facilities that will further process that waste. (page 132)

(1) A transfer/processing facility or operation that complies with Section 17409.8 (a);
(2) A compostable material handling facility or operation that demonstrates the percentage of organic waste in the materials sent to disposal is:
   (A) On and after January 1, 2022 with no more than 20 percent of incompatible material by weight; and
   (B) On and after January 1, 2024 with no more than 10 percent of incompatible material by weight.
(3) An in-vessel digestion facility or operation that demonstrates that the percentage of organic waste in the material sent to disposal is:
   (A) On and after January 1, 2022 with no more than 20 percent of incompatible material by weight; and
   (B) On and after January 1, 2024 with no more than 10 percent of incompatible material by weight.

17409.5.8. (d)(e) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy.

17409.5.8. (f) For the purposes of this section "disposal" has the same meaning as "activities that constitute disposal" as defined in Section 18982.

17409.5.9. Alternatives to Measurement Protocols. (a) The EA may approve, with the concurrence by the Department, alternative measurement protocols. (page 133)

17409.5.9. (b) When required by this article, the operator shall report tonnages using a scale. If scales are not accessible, the EA may approve, with concurrence by the Department, the operator to report the tonnages using a method described in Section 18815.9(g). (page 133)

17409.5.9. (c) The EA may approve, with written concurrence by the Department, a substitute to certain requirements to sample and measure specific types of organic waste that are designated for an organic waste recovery facility or operation accepting that organic waste type. (Specific requirements can be found on page 133-134.)

17409.5.10. Solid Waste Handling at Consolidation Sites. Consolidation sites (including limited volume transfer operations, direct transfer, and sealed container transfer) are not subject to the above requirements, recordkeeping and reporting requirements, but shall keep SSO streams separate for other solid waste streams and materials shall be transported only to transfer/processing facilities or operations that comply with the above organics waste recover in Section 17409.5.1. (page 134)

17409.5.10.5 Solid Waste Handling at Co-located Facilities. (a) The operator of an attended solid waste facility or operation that accepts a mixed waste organic collections stream, a source separated organic waste stream, or both for processing and directly transfers the organic waste recovered from either waste stream for processing to a co-located activity within the boundary of the facility is subject to the following requirements: (pages 134-135)

(1) If sampling performed demonstrates that the percent of the material removed for disposal that is organic waste is less than the percent specified in Section 17409.5.8(c)(2), 17409.5.5, 17867, or 17896.44.2, demonstrates that the percent of the material removed for disposal that is organic waste is less than the percent specified in section 17409.5.8 (c)(2) , then only the organic waste that is sent off-site for further processing and landfill disposal are subject to the requirements of Sections 17409.5 through 17409.8.

(2) If sampling performed demonstrates that the percent of the material for disposal that is organic waste is more than the percent specified in Section 17409.5.8(c)(2) then the organic waste removed after processing and sent for further processing on-site or off-site and landfill disposal are subject to the requirements of Sections 17409.5.1 through 17409.5.8.

17409.5.11. Remnant Organic Material Separated from Gray Container Processing. (a) Remnant organic material separated from the gray container collection stream is not subject to the organic waste recovery efficiency requirements or incompatible material limit and can be mixed with SSO stream after it has gone through the measurement protocol. (page 135)

17409.5.12 Transfer/Processing EA Verification Requirements. (a) and (b) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17409.5.2-17409.5.5, 17409.5.8, and 17409.5.11 by the review of records, and the periodic, direct observation of measurements. (page 136)

17409.5.12 (c) If the EA determines that the record under 17414.2 (b) indicate that compostable material is sent offsite to any determination other than an authorized permitted solid waste facility or operation the EA shall directly observe any compostable material onsite designated for such offsite destination. If physical contaminants, based on visual observation clearly exceed the limits in Section 17852(a)(24,5)(A)(1), the EA may require the operator to further process such material. (page 136)

**Recordkeeping and Reporting Requirements**

17414.2. Recordkeeping and Reporting Requirements – Organic Waste Recovery. (a) The operator shall keep records of each sample conducted pursuant to the operating standards for Transfer/Processing Operations and Facilities, the daily outgoing weights of material recovered from the mixed waste organic waste streams, the daily outgoing weights of materials removed from the mixed organic waste stream and sent to landfill disposal, the daily outgoing weights of material removed from the source separated, organic-waste stream and sent to landfill disposal, the daily incoming weights of mixed waste organic waste the daily incoming weights of source separated organic waste, the results of the formula calculate pursuant to section 17409.5.8(b)(7), requirements with the incompatible material requirements, and the results of the waste evaluation. (page 136-137)

17414.2. (b) The operator shall record and maintain records regarding compostable materials that is sent offsite to any destinations other than an authorized permitted solid waste facility or operation. of the weight and location of land applied compostable material. (page 137)

17414.2. (c-e) The records shall be kept in one location, retained for three years, and available for inspections by the EA or other authorized regulatory agencies. (page 137)

**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 (AB 901 requirements)** (pages 158-159)
18815.5. Reporting Requirements for Transfer/Processors. (d) Commencing with the first reporting period in 2022, (1) A reporting receiving facility that receives material from a mixed waste organic waste stream shall, for purposes of determining the annual average organic content recovery rate, report the quarterly sum of outgoing weights of organic waste recovered, the organic waste that is sent to disposal, and the sum of the daily records of incoming and outgoing weights of material from the mixed waste organic collection stream measured in 17414.2 (a)(2), (3), and (6) above.

18815.5. (d)(2) A reporting receiving facility that receives material from a source separated organic waste stream shall report the quarterly sum of outgoing weights of organic waste recovered and the organic waste that is sent to disposal as measured in 17409.5.1 (d) (1) and (2) above.

# Composting Operations

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 3.1: Composting Operations Regulatory Requirements**

**Article 5.0. Composting Operation and Facility Siting and Design Standards**
17867. General Operating Standards.
17867. (a)(16) The operator shall determine the quarterly percentage of organic waste contained in materials sent to landfill disposal. (page 141-143)
(A) The measurements shall be conducted at the following frequency:
(A) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.
(B) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (1) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (2) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days.
(B) The operator shall comply by using the following protocol:
(1) Take one sample of at least 200 pounds of materials that the operation or facility is sending to disposal, on that operating day representative of a typical operating day and taken either from various times of the day or from various locations within the pile of material that will be sent to disposal.
(2) Record the total weight of the sample. If the total weight of a single organic waste type processed in a single operating day is less than 200 pounds, the operator shall sample all of the organic waste type.
(3) Remove any material that is not organic waste and determine the remaining weight of organic waste in the sample.
(4) Determine the ratio of the organic waste in the materials by dividing the total from (B)(3) by the total weight recorded in (B)(2).
(5) Determine the total weight of organic waste that is sent to disposal by multiplying the ratio determined in (B)(4) by the total weight of the materials sent to landfill disposal.
(6) Determine the sum of outgoing weights of organic waste present in the material that is sent to disposal as determined in (B)(5).
(7) Determine the ratio of organic waste sent to disposal.
(8) Determine the percentage of organic waste present in the material sent to disposal.

17867. (C)(D) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy. (page 143)

17867 (E) An alternative measurement protocol may be approved by the EA with concurrence by the Department. (page 143)

**Article 8. Composting Operation and Facility Records**
17869. General Record Keeping and Reporting Requirements. (d) The operator shall maintain records in a manner approved by the EA, be maintained for five years, and be available for review, which shall include

the quarterly percentage of organic waste contained in materials, daily outgoing weights of materials sent to disposal, compost or chopped and ground material produced, incoming weights by material type, and the weight and location of property receiving compostable material for land application. (pages 143-144)

17869. (j) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17867 (a)(16) by the review of records, and the periodic, direct observation of measurements.

17869. (k) If the EA determines that the records indicate that compostable material is sent offsite to any destination other than an authorized permitted solid waste facility or operation, the EA shall directly observe compostable material onsite designated for such offsite destination. If physical contaminants clearly exceed the limit based on visual observation the EA may require the operator to further process such material. (page 145)

**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 (AB 901 requirements)** (pages 163-164)
18815.7. Reporting requirements for Recycling and Composting Facilities and Operations. (f) Commencing with the first reporting period in 2022, and in each subsequent reporting period thereafter a recycling or compost facility or operation shall, if applicable, additionally report the monthly percentage of organic waste contained in residuals removed from processing as calculated pursuant to 17869 (e)(5) (composting operation) or 17896.45 (a)(1)(E) (in-vessel digestion operation).

# In-Vessel Digestion Operations

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 3.2: In-Vessel Digestion Operations and Facilities Regulatory Requirements**

**Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities**
17896.44.1. Measuring Organic Waste in Residuals (a) The operator shall determine the quarterly percentage of organic waste contained in materials sent to landfill disposal using the following protocol: (pages 147-149)

(1)(A) The measurements shall be conducted at the following frequency:

(1) For each reporting period, the operator shall perform the sampling protocol over 10 consecutive operating days.

(2) An operator may use the results of samples conducted over a period of more than 10 days if the following apply: (i) If less than 10 additional days are sampled in the reporting period, the additional operating days shall be where sampling is performed shall be a consecutive continuation of the original 10 consecutive days of sampling. (ii) if 10 additional operating days or more are selected for sampling, the additional operating days shall be conducted on consecutive days but may be performed during a different pare to the reporting period and are not required to be a continuation of the original 10 operating days.

(2) The operator shall comply by using the following protocol:

(A) Take one sample of at least 200 pounds of materials that the operation or facility is sending to landfill disposal, on that operating day representative of a typical operating day and taken either from various times of the day or from various locations within the pile of material that will be sent to disposal.

(B) Record the total weight of the sample. If the total weight of material sent to landfill disposal in a single operating day is less than 200 pounds, the operator shall sample all of the material that is sent to landfill disposal that day.

(C) Remove any material that is not organic waste and determine the remaining weight of organic waste for each sample.

(D) Determine the ratio of organic waste present in the materials removed for landfill disposal by dividing the total from (C) by the total from (B).

(E) Determine the total weight of organic waste that is sent for landfill disposal by multiplying the ratio above by the total weight of materials removed for disposal from the SSO waste collection stream after processing.

(F) Determine the sum of outgoing weights of organic waste present in the material that is sent to landfill disposal as determined in (E).

(G) Determine the ratio of organic waste sent to disposal.

(H) Determine the percentage of organic waste present in the materials sent to disposal.

17896.44.1. (b)(c) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy. (page 149)

17896.44.1. (d) An alternative measurement protocol may be approved by the EA with concurrence by the Department. (page 149)

17896.44.1. (e) Textiles, carpet, hazardous wood waste, non-compostable paper and material subject to a quarantine on movement issued by a county agricultural commissioner is not required to be measured as organic waste. (page 149)

17896.44.1.(f) Organic waste sent to an activity listed in Section 18983.1(a) shall constitute landfill disposal. (page 149)

**Article 4. Record Keeping Requirements**

17896.45. General Record Keeping and Reporting Requirements. (a) Each operator shall maintain records in a form and manner approved by the EA, be maintained for five years, and be available for review, which shall include the quarterly percentage of organic waste contained in materials sent to disposal, daily outgoing weights of materials sent to disposal, outgoing weights or volumes or organic waste recovered and produced or salvaged materials, incoming weights of material, and the weight and location of property receiving compostable material for land application. (page 149-150)

17896.45. (k) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17867 (a)(16) by the review of records, and the periodic, direct observation of measurements. (page 151)

17896. 45 (l) If the EA determines that the records required by this section indicted that compostable material is sent offsite to any destination other than an authorized permitted solid waste facility or operation, the EA shall directly observe compostable material onsite designated for such offsite destination. If physical contaminants clearly exceed the limit based on visual observation the EA may require the operator to further process such material. (page 151)

**Article 6. Digestate Handling Standards**

**17896.57.** Digestate Handling (a) Digestate not contained in an in-vessel digester shall, within 24 hours be:

(3) Removed from the site and be (A) transported only to one of the following solid waste facility or operation for additional processing, composting, or disposal: transfer/processing facility or operation that complies with Section 17409.5.8 or a compostable material handling facility or operation that, demonstrates that the percentage of organic waste in the materials sent to disposal is on or after January 1, 2022, less than 20 percent and on and after January 1, 2024, less than 10 percent of the materials sent too disposal are organic waste. (page 152)

**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 (AB 901 requirements)**

18815.7. Reporting requirements for Recycling and Composting Facilities and Operations. (f) Commencing with the first reporting period in 2022, and in each subsequent reporting period thereafter a recycling or compost facility or operation shall, if applicable, additionally report the monthly percentage of organic waste contained in residuals removed from processing as calculated pursuant to 17869 (e)(5) (composting operation) or 17896.45 (a)(1)(E) (in-vessel digestion operation). (page 164)

# Solid Waste Landfills

**Title 27: Environmental Protection**
Division 2. Solid Waste
**Chapter 3: Criteria for All Waste Management Units, Facilities, and Disposal Sites**
Subchapter 4: Criteria for Landfills and Disposal Sites

**Article 3. CalRecycle – Handling, Equipment, and Maintenance** (page165)
20750.1. CalRecycle – Organic Waste Handling (a) For new or expanding solid waste landfills, the operator shall implement organic waste recovery activities, as approved by the EA. The ORGANIC WASTE recovery activities shall be confined to specified, clearly identifiable areas of the site and shall be arranged to minimize health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to volume and storage time as approved by the EA.

20750.1. (b) For purposes of this section, organic waste recovery activities mean activities that divert organic waste from landfill disposal to activities that constitute a reduction of landfill disposal.

20750.1. (c) For purposes of this section, expanding means a solid waste landfill proposing to make a significant chant to the design or operation as determined b the EA. Changing the hours of operation of a landfill is not considered and expansion.

**Article 4. CalRecycle – Controls**
**20901. Gray Container Waste Evaluations, 20901.1. Evaluation Frequencies, and 20901.2 Gray Container Waste Evaluations Measuring Remnant Organic Material has been deleted.**

**Chapter 4: Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans**
Subchapter 3: Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits

**Article 2. CalRecycle – Applicant Requirements**
21570. CalRecycle - Filing Requirements. (g) For new or expanded solid waste facilities, hold a public meeting with any affected disadvantaged communities (as defined by CalEnviroScreen) within 180 days prior to submittal of the permit application package. Provide copies of the notices, a summary of the comments received and responses to the public comments, and any other steps taken by the applicant relative to those comments. (page 172)

**Article 3.2. CalRecycle – Other Requirements**
21695. CalRecycle – Organic Disposal Reduction Status Impact Report (a) Operators of a solid waste landfill shall submit a status Impact Report (SIR) to CalRecycle that provides and analysis of the potential impact to the landfill resulting from the implantation of the organic disposal reduction requirements; (b) shall be prepared by a CA registered civil engineer or certified engineering geologist; and contain specific information found in (c), including a description and/or map of the areas(s) that have or will have intermediate cover, the length of time that the intermediate cover has been used and expected time that it will be used for each defined area, and a description of how the intermediate cover will be maintained to continue to meet the control criteria of section 20700 (a); and (d) be submitted to CalRecycle no later than one year from the effective date of this regulation. (pages 176-177)

## Local Enforcement Agencies

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 3: Minimum Standards for Solid Waste Handling and Disposal**

**Article 6.2. Operating Standards**
17409.5.1. Organic Waste Recovery Efficiency. (pages 121-122) (a) This section applies to transfer/ and processing facilities and operations that conduct processing activities.

17409.5.1. (b) For the 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.

17409.5.1. (e) The operator shall maintain records demonstrating compliance with this section in a manner approved by the EA and as described in Section 17414.2(a) of this chapter.

17409.5.2. Measuring Organic Waste Recovered from Mixed Waste 23 Organic Collection Stream. (a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream shall measure the amount by weight of organic waste separated from the mixed waste organic collection stream after processing for end-use, recovery or further processing. (page 122)

17409.5.2. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 123)

17409.5.3. Measuring Organic Waste in Material Removed from Mixed Waste Organic Collection Stream for Disposal. (a) The operator of an attended operation or facility that accepts a mixed waste organic collection stream shall measure the amount by weight of organic waste present in the material removed from the mixed waste organic collection stream after processing that is sent to disposal. (page 123)

17409.5.3. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 124)

17409.5.4. Measuring Organic Waste Recovered from Source Separated Organic Waste Collection Stream. (a) The operator of an attended operation or facility that accepts source separated organic waste, shall measure the amount by weight of organic waste separated from the source separated organic waste collection stream after processing for end-use, recovery or further processing. (page 125)

17409.5.4. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 126)

17409.5.5. Measuring Organic Waste in Materials Removed from Source Separated Organic Waste Collection Stream for Disposal. (a) The operator of an attended operation or facility that accepts a source separated organic waste shall measure the amount of organic waste by weight present in the materials removed from the source separated organic waste collection stream after processing that is sent to disposal. (page 126)

17409.5.5. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 127)

17409.5.7 Gray Container Waste Evaluation (*The daily loadchecking every 500 tons of source separated organic waste received was deleted.*) (pages 128-129)

(h) Commencing July 1, 2022, the operator of an attended operation or facility that receives a gray container collection stream, and more than 500 tons of solid waste from at least one jurisdiction annually, shall conduct waste evaluations of the gray container collection stream consistent with this section. (page 129)

(i) Upon written notification to the applicable EA, the operator may conduct offsite gray container waste evaluations at an alternative, permitted or authorized solid waste facility or operation provided that the operator does not process the material prior to its transfer offsite for the waste evaluation. (page 130)

(j) The operator shall conduct a measurement in the presence of the EA when requested. (page 130)

(k) If it is determined by the EA that the measurements do not accurately reflect the records, the EA may require the operator to increase the frequency of measurements, revise the measurement protocol, or both to improve accuracy. (page 130)

(l) The operator shall maintain records of waste evaluations and the training of personnel in evaluating the amount of remnant organic material. The records shall be maintained for 5 years and be available for review by appropriate and authorized regulatory agencies. (page 130)

17409.5.8. Incompatible Materials Limit in Recovered Organic Waste. (a) A transfer/processing facility or operation shall only send offsite that organic waste recovered after processing from the source separated organic waste stream and from the mixed waste organic collection stream that meets the following requirements: (page 131)

(1) On and after January 1, 2022 with no more than 20 percent of incompatible material by weight; and

(2) On and after January 1, 2024 with no more than 10 percent of incompatible material by weight.

17409.5.8. (c)(d) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements, revise the protocol, or both to improve accuracy. (page 132)

17409.5.9. Alternatives to Measurement Protocols. (a) The EA may approve, with the concurrence by the Department, alternative measurement protocols. (page 133)

17409.5.9. (b) When required by this article, the operator shall report tonnages using a scale. If scales are not accessible, the EA may approve, with concurrence by the Department, the operator to report the tonnages using a method described in Section 18815.9(g). (page 133)

17409.5.9. (c) The EA may approve, with written concurrence by the Department, a substitute to certain requirements to sample and measure specific types of organic waste that are designated for an organic

waste recovery facility or operation accepting that organic waste type. (Specific requirements can be found on page 133-134.)

17409.5.12 Transfer/Processing EA Verification Requirements. (a) and (b) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17409.5.2 through 17409.5.5, 17409.5.7, and 17409.5.8 by the review of records, and the periodic, direct observation of measurements. (page 136)

174095.12 (c) If the EA determines that the records indicate that compostable material is sent offsite to any destination other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination. If physical contaminants clearly exceed the limits, the EA may require the operator to further process such material. (page 136)

**Chapter 3.1: Composting Operations Regulatory Requirements**

**Article 8. Composting Operation and Facility Records**

17869. General Record Keeping and Reporting Requirements. (d) The operator shall maintain records in a manner approved by the EA, be maintained for five years, and be available for review, which shall include the quarterly percentage of organic waste contained in materials, daily outgoing weights of materials sent to disposal, compost or chopped and ground material produced, incoming weights by material type, and the weight and location of property receiving compostable material for land application. (pages 143-144)

17869. (j) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17867 (a)(16) by the review of records, and the periodic, direct observation of measurements.

17869. (k) If the EA determines that the records indicate that compostable material is sent offsite to any destination other than an authorized permitted solid waste facility or operation, the EA shall directly observe compostable material onsite designated for such offsite destination. If physical contaminants clearly exceed the limit based on visual observation the EA may require the operator to further process such material. (page 145)

**Chapter 3.2: In-Vessel Digestion Operations and Facilities Regulatory Requirements**

**Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities**

17896.44.1. Measuring Organic Waste in Residuals (a) The operator shall determine the quarterly percentage of organic waste contained in materials sent to landfill disposal using the following protocol: (pages 147-149)

17896.44.1. (b)(c) The operator shall conduct a measurement in the presence of the EA when requested and the EA may require the operator to increase the frequency of measurements and/or revise the protocol to improve accuracy. (page 149)

17896.44.1. (d) An alternative measurement protocol may be approved by the EA with concurrence by the Department. (page 149)

**Article 3. Record Keeping Requirements**
17896.45 Record Keeping and Reporting Requirements. (a) Each operator shall maintain records in a form and manner approved by the EA, be maintained for five years, and be available for review, which shall include the quarterly percentage of organic waste contained in materials sent to disposal, daily outgoing weights of materials sent to disposal, outgoing weights or volumes or organic waste recovered and produced or salvaged materials, incoming weights of material, and the weight and location of property receiving compostable material for land application. (page 149-150)

17896.45. (k) The operator shall provide the EA all requested information and other assistance so that the EA can verify that the measurements conducted by the operator are consistent with the requirements of section 17867 (a)(16) by the review of records, and the periodic, direct observation of measurements. (page 151)

17896. 45 (l) If the EA determines that the records required by this section indicted that compostable material is sent offsite to any destination other than an authorized permitted solid waste facility or operation, the EA shall directly observe compostable material onsite designated for such offsite destination. If physical contaminants clearly exceed the limit based on visual observation the EA may require the operator to further process such material. (page 151)

**Title 27. Environmental Protection**
Division 2. Solid Waste
**Chapter 3: Criteria for All Waste Management Units, Facilities, and Disposal Sites**
Subchapter 4. Criteria for Landfills and Disposal Sites

**Article 3. CalRecycle – Handling, Equipment, and Maintenance**
20750.1 CalRecycle-Organic Waste Handling. (a) For new or expanding solid waste landfills, the operator shall implement organic waste recovery activities, as approved by the EA. The organic waste recovery activities shall be confined to specified, clearly identifiable areas of the site and shall be arranged to minimize health and safety hazard, vector harborage, or other hazard or nuisance, and be limited to volume and storage time as approved by the EA. (page 165)

20750.1. (b) For purposes of this section, organic waste recovery activities mean activities that divert organic waste from disposal to constitute a reduction of landfill disposal. (page 165)

20750.1. (c) For purposes of this section, expanding means a solid waste landfill proposing to make a significant change to the design or operation as determined by the EA. Changing the hours of operation of a landfill is not considered and expansion. (page 165)

**Chapter 4: Documentation and Reporting for Regulatory Tiers, Permits, WDRs, and Plans**
Subchapter 3: Development of Waste Discharge Requirements (WDRs) and Solid Waste Facility Permits

**Article 3. CalRecycle – Enforcement Agency (EA) Requirements**
21660.2. Informational Meeting for New and Revised Full Solid Waste Facilities Permit Applications. (a) and (e) The informational meeting for all new and revised full solid waste facilities permit applications conducted by the EA within 300' from the facility that is the subject of the meeting shall now also include one mile from any disadvantaged community as defined CalEnviroScreen. (page 176)

# CalRecycle

**Title 14: Natural Resources**
Division 7. Department of Resources Recycling and Recovery
**Chapter 12: Short-Lived Climate Pollutants**

**Article 2. Landfill Disposal and Reductions in Landfill Disposal**
18983.2 Determination of Technologies that Constitute a Reduction in Landfill Disposal. Provides a process for an applicant to submit information for new technologies that may constitute a reduction in landfill disposal and sets the requirements and responsibilities of the Department. (pages 15-16)

**Article 3. Organic Waste Collection Service**
18984.12. Waivers and Exemptions Granted by the Department. (a) Low Population Waiver. An incorporated city that disposed of less than 5,000 tons of solid waste in 2014 and that has a total population of less than 7,500 people or a county with census tracts that have a population density of less than 75 people per square mile may apply to CalRecycle for a low population waiver as specified in this section. The waiver shall be good for a period of up to ~~two~~ five years. The Department shall review and evaluate and approve or deny a waiver request within 90 days. (pages 30-31)

18984.12. (c) Rural Exemptions. The Department shall grant an exemption from complying with the organic waste collection requirements until ~~January 1, 2025~~ December 31, 2026, for jurisdictions that meet the definition of a "Rural Jurisdiction" under the AB 1826 mandatory commercial organics recycling (counties with a population less than 70,000) if the jurisdiction adopts a resolution that includes a finding as to the purpose of and need for the exemption. (page 31)

18984.12. (d) Elevation Waivers. A jurisdiction may apply to the Department for a waiver for the jurisdiction and some or all of its generators from the requirement to separate and recover food waste and food-soiled paper if the entire jurisdiction is located at or above an elevation of 4,500 feet or in census tracts located in unincorporated portions of the county that are located at or above 4,500 feet. The Department shall review and evaluate and approve or deny a waiver request within 90 days. (pages 31-32)

18984.13. Emergency Circumstances. (a) Emergency Processing Facility Temporary Equipment or Operational Failure Waivers. If a facility processing a jurisdiction's organic waste notifies the jurisdiction that operational restriction have been imposed on it by a regulatory agency or that an unforeseen equipment or operational failure will prevent the facility from processing, the jurisdiction may allow the organic waste stream to be deposited in a landfill for up to 90 days from the date of the restriction or failure. The jurisdiction shall notify the Department within 10 days of the waiver decision and shall include the period that the jurisdiction has allowed the organic waste stream to be deposited in a landfill. (page 32)

18984.13. (b) Disasters and emergency waivers: (1) A jurisdiction may submit a request for a waiver for the disposal of "disaster debris" that cannot be diverted that are subject of a disaster. (2) A jurisdiction may dispose of sediment debris removed from dams, culverts, reservoirs, channels and other flood control infrastructure if the material is subject to a waste discharge requirement issued by the regional water quality control board that requires the average organic content of the debris to be less than five percent. (page 33)

18984.13 (c) A jurisdiction is not required to separate or recover organic waste that is removed from homeless encampments and illegal disposal sites as part of an abatement activity to protect public health and safety. If the total amount of solid waste removed for landfill disposal pursuant to this subdivision is expected to exceed 100 tons annually the jurisdiction shall record the amount of material removed. (page 33)

18984.13 (d) A jurisdiction may dispose of specific types of organic waste that are subject to quarantine. (page 33)

**Article 5. Generators of Organic Waste**

18986.3. Waivers for Non-Local entities and Local Education Agencies. The Department shall waive a non-local entity's or local education agency's obligation to comply with organic waste collection service requirements if it meets the de minimis or space waiver specifications of 18984.11 or it is located in a jurisdiction that has been granted a department waiver pursuant to 18984.12. (page 39)

**Article 12. Procurement of Recovered Organic Waste Products**

18993.1 Recovered Waste Product Procurement Target. (b) On or before January 1, 2022, and on or before January 1 every five years thereafter, the Department shall recalculate the annual recovered organic waste product procurement target for each jurisdiction according to the requirements of Subdivision (c). (page 54)

**Article 15. Enforcement Oversight by the Department**

18996.1. Department Evaluation of Jurisdiction requirement. (a)(b) The Department shall evaluate a jurisdiction's compliance with this chapter and shall review its implementation record (IR), and may conduct of inspection, compliance reviews, and route reviews. (page 69)

18996.1. (c)(d) The Department shall notify the jurisdiction prior to conducting an evaluation and provide the jurisdiction a summary of the Department's findings in writing. (page 69)

18996.1. (e) If the Department determines that a judication's ordinance (enforceable mechanism) does not meet the requirement of this chapter, the Department shall notify the jurisdiction of the deficiencies, and the jurisdiction shall have 90 days from that notice to correct the deficiencies.

18996.2. Department Enforcement Action Over Jurisdictions. (a) If the Department finds that a jurisdiction is violating any provisions, the Department may take the following actions:

(1) Issue a NOV requiring compliance in 90 days. An extension may be granted for up to a total of 180 days if there is evidence that additional time is needed. (page 69)
(2) The Department may extend the deadline for a jurisdiction to comply beyond the maximum compliance deadline allowed in Subdivision (a)(1) by issuing a Corrective Action Plan (CAP) setting forth the actions a jurisdiction shall take to correct the violation(s). A Corrective Action Plan may be issued if the Department finds that additional time is necessary for the jurisdiction to comply and the jurisdiction has made a substantial effort to meet the maximum compliance deadline but extenuating circumstances beyond the control of the jurisdiction make compliance impracticable. The Department shall base its finding on available evidence, including relevant evidence provided by the jurisdiction. (page 70)

(A) If a jurisdiction is unable to comply with the maximum compliance deadline allowed due to deficiencies in organic waste recycling capacity infrastructure, the Department may issue a CAP upon making specific findings. (pate 70)

(B) Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the necessary steps to comply including failure to provide adequate staff resources, a failure to provide sufficient funding to ensure compliance, or a failure to adopt required ordinances. (page 70)

(C) Extenuating circumstances are acts of God, such as earthquakes, wildfires, mudslides, flooding, and other emergencies and natural disasters, delays in obtaining discretionary permits or other government agency approval, and an organic waste recycling infrastructure capacity deficiency requiring more than 180 days to cure. (page 71)

(3) The CAP shall be issued for a maximum compliance deadline for no more than 24 months, shall include a description of each action the jurisdiction shall take and the applicable compliance deadlines for each action, and shall describe the penalties that may be impose if a jurisdiction fails to comply. (page 71)

(4) A CAP issued due to inadequate organic waste recycling infrastructure capacity may be extended up to 12 months if the jurisdiction has demonstrated substantial effort. (page 71)

18996.3. Department Enforcement When Jurisdiction Fails to Enforce. The Department may take direct enforcement action against an entity subject to a jurisdiction's enforcement authority if the jurisdiction fails to enforce the requirements. The department shall notify the jurisdiction in writing of its intent to do so and may also take enforcement action against the jurisdiction. (page 71-72)

18996.4. Access for Inspection by the Department. An authorized Department employee or agent shall be allowed to enter an entity's premises during normal working hours to conduct inspections and investigations in order to determine compliance. This is not intended to permit an employee or agent of the Department to enter residential property. (page 72)

18996.5. Enforcement Action Against Organic Waste Generators Located in Multiple Jurisdictions ~~and Non-Local Entities~~. Multiple jurisdictions may file a joint enforcement referral to the Department requesting the Department take enforcement action against an organic waste generator with locations in each of those jurisdictions in lieu of those jurisdictions taking separate enforcement actions. The referral shall contain specific information and the Department may take enforcement action upon specific findings. (pages 72-73)

18996.6. Department Enforcement Action Regarding State Agencies ~~and Facilities~~. (a) If the Department finds that a state agency is violating these provisions, the Department may issue a NOV requiring compliance within 90 days and may grant an additional extension up to 180 days from the date of issuance of the NOV if evidence is provided that additional time is needed. (page 74)

18996.6. (2) If the Department finds a state agency or state facility fails to comply with the NOV, the Department may take the following enforcement actions: list the state agency or facility on the Organic Waste Recovery Noncompliance Inventory, ~~request that the Department of General Service (DGS) conduct an audit~~, notify the Governor, and notify the legislature. (page 75)

18996.7. Department Enforcement Action Regarding Local Education Agencies and Federal Facilities. (a) If the Department finds a local education agency, is violating these provisions the Department may issue a NOV requiring compliance within 90 days and may grant an additional extension up to 180 days from

the date of issuance of the NOV if evidence is provided that additional time is needed. If the local education agency fails to comply with the NOV, the Department may list the local education agency on the Organic Waste Recovery Noncompliance Inventory. (page 75)

18996.8. Department Investigation of Complaints of Alleged Violations ~~by Jurisdictions and Entities~~. (a) The department shall receive and investigate written complaints of alleged violation according the requirements of this section. Complaints may be submitted anonymously, shall be submitted in writing, and include specific information. (page 76)

18996.8. (c) The Department shall commence an investigation within ~~60~~ 90 days if the Department determines the allegations would constitute a violation. (page 76)

18996.8. (d) If the Department receives a complaint about a violation within the enforcement authority of a jurisdiction, it shall refer the complaint to the jurisdiction for investigation. (page 76)

18996.9. Department Enforcement Actions Against Entities. (a) The Department may take enforcement action against organic waste generators, including commercial edible food generators, haulers, and food recovery organizations and services where a jurisdiction has failed to enforce this chapter or where the entity is a non-local entity that is not a state agency, local education agency, or federal facility. (page 77)

18996.9. (b) Violations of this chapter shall be enforced as follows:

(1) For a first offense, the Department ~~shall~~ may issue a NOV requiring compliance within 60 days. If the violation is not corrected, the Department ~~shall~~ may issue a Notice and Order to Correct (NOTC) requiring compliance with 30 days and include potential penalties for failing to comply. If the violation continues after the 30 days, the Department ~~shall~~ may commence action to impose a penalty ~~no later than 90 days after the issuance of the NOTC~~.

(2) For all subsequent offenses, the Department may issue a NOTC requiring compliance within 30 days and shall include the potential penalties for failing to comply. If the violation continues after the 30 days, the Department ~~shall~~ may commence action to impose penalties ~~no later than 90 days after the issuance of the NOTC~~ pursuant to section 18997.5 Department Procedure for Imposing Administrative Civil Penalties (page 101). (pages 77-78)

18996.9. (c) The Department may extend the deadlines if it makes findings based on evidence that additional time is necessary, extenuating circumstances beyond the control of the respondent make compliance impracticable, such as acts of God , such as earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters, delays in obtaining discretionary permits or other government agency approval, and an organic waste recycling infrastructure capacity deficiency and the jurisdiction is under a CAP for such deficiencies. (page 78)

**Article 16. Administrative Civil Penalties for Violations of Requirements of the Chapter**

18997.1. Scope. (a) The Department may impose administrative civil penalties.

18997.3. Department Penalty Amounts. (a) Penalties shall be imposed administratively in accordance with the requirements set forth in this section.

**Tables 1-11, which prescribed the requirements, description of violation, and levels of the violation offense, has been deleted.** (pages 84-99)

18997.3. (b) Penalties, except for the Recovered Organic Waste Product Procurement requirements, shall be assessed as follows: (page 83)

(4) A "Minor" violation means a violation involving minimal deviation from the standards where the entity failed to implement some aspects of a requirement but has otherwise not deviated from the requirement. The penalties shall be no less than $500 dollars or more than $4,000 per violation per day.

(5) A "Moderate" violation means a violation involving moderate deviation from the standards where the entity failed to comply with critical aspects of the requirement but has otherwise not deviated from the requirement. The penalties shall be no less than $4,000 dollars or more than $7,500 per violation per day.

(6) A "Major" violation means a violation that is a substantial deviation from the standards, that may also be knowing, willful, or intentional or a chronic violation by a recalcitrant violator as evidenced by a pattern or practice of noncompliance. The penalties shall be no less than $7,500 dollars or more than $10,000 per violation per day. Major violations shall always be deemed to include:

(A) A jurisdiction fails to have any ordinance or similarly enforceable mechanism for organic waste disposal reduction and edible food recovery.

(B) A jurisdiction fails to have a provision in a contract, agreement, or to the authorization that requires a hauler to comply with the requirement of this chapter.

(C) A jurisdiction fails to have an edible food recovery program.

(D) A jurisdiction fails to have any Implementation Record.

(E) A jurisdiction implements or enforces an ordinance, policy, procedure, condition, or initiative that is prohibited under the Organic Waste Recovery Standards and Policies (Section 18990.1.) or Edible Food Recovery Standards and Policies (Section 18990.2.).

(F) A jurisdiction fails to report any information to the Department required by the Initial Jurisdiction Compliance Report (Section 18994.1. or the Jurisdiction Annual Reporting (Section 18994.2.)

~~18997.3. (c) using the penalty tables contained in section (b) for Level 1 the penalty range shall be $50-$500 per violation; for Level 2 the penalty range shall be $250-$1,000 per violation; for Level 3 the penalty range shall be $500-$2,500 per violation; for Level 4, the penalty range shall be $500-2,500 per day; for level 5 the penalty range shall be $1,000-5,000 per day; and for Level 5, the penalty range shall be $5,000-10,000 per day.~~

18997.3. (c) Once the penalty range has been determined, the following factors shall be used to determine the amount of the penalty for each violation within that range: (page 99)

(1) The nature, circumstances, severity of the violation.
(2) The violator's ability to pay.
(3) The willfulness of the violator's misconduct;
(4) Whether the violator took measures to avoid or mitigate the violation.
(5) Evidence of any economic benefit resulting from the violation.
(6) The deterrent effect of the penalty on the violator
(7) Whether the violation was due to conditions outside the control of the violator.

18997.3. (d) For violation of the Recovered Organic Product Procurement requirements, the Department shall calculate the jurisdictions daily procurement equivalent and using the total amount of recovered organic waste products procured, determine the number of days a jurisdiction was out of compliance. The penalty amount shall not exceed $10,000 per day.

18997.4. Organic Waste Recovery Noncompliance Inventory. If the Department finds that a state agency, ~~state facility, or~~ local education agency, or federal facility has failed to meet the final deadline in a NOV,

the Department shall send a notice to the entity stating that the department ~~intends to~~ has placed it on the Organic Waste Noncompliance Inventory until the violation is corrected. (page 100)

18997.5. Department Procedure for Imposing Administrative Civil Penalties. The Department shall serve and accusation on a person against whom civil penalties are being sought; the respondent shall have 15 days to file a request for a hearing; within 30 days of receiving the request the Department shall schedule a hearing within 90 days; and the Director shall issue a written decision within 60 days of the conclusion of the hearing. (page 101)

# PFAS IN CALFORNIA: PAST, PRESENT & FUTURE

**Location:** **California Environmental Protection Agency**
**1001 I Street, Sacramento, CA 95814**
**Webcast Information: https://video.calepa.ca.gov/**

**Date:** **December 4, 2019 (8:30AM – 4:00PM) and**
**December 5, 2019 (8:30AM – 3:30PM)**

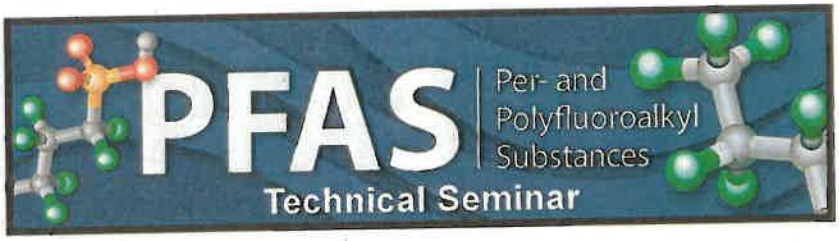
**Objective:** The State Water Resources Control Board is hosting a two-day Technical Seminar and concurrent Datathon on per- and polyfluoroalkyl substances (PFAS) to share technical information about PFAS (past), the current landscape and state of knowledge about PFAS (present), and the upcoming technical advances in remediating or treating PFAS (future). Data scientists are invited to work alongside PFAS experts during the Datathon to develop data schema and answer broader PFAS questions. Their results will be presented to the larger seminar audience at the end of the 2nd day.

## Day 1- Seminar Agenda

### Bryon Sher Auditorium, 2nd Floor

**8:30AM to 9:00AM – Registration (1st Floor)**

| |
|---|
| **Opening Remarks and Keynote Address (9:00AM to 9:30AM)**<br>E. Joaquin Esquivel, Chair of the State Water Resources Control Board |
| **Update on Water Board Actions (9:30AM to 10:00AM)**<br>Dan Newton, Division of Drinking Water, *State Water Resources Control Board*<br>Shahla Farahnak, Division of Water Quality, *State Water Resources Control Board* |
| ***PAST: WHAT ARE PFAS – WHY DO WE CARE? (10:00AM to 11:30AM)*** |
| ***Panel 1: History, Use, Nomenclature, Chemistry, Toxicology*** |
| Erica Kalve, P.G., *San Francisco Bay Regional Water Quality Control Board*<br>*Overview of the History, Use and Nomenclature of PFAS* |
| Karla Buechler, Ph.D., *Eurofins/ TestAmerica*<br>*Overview of existing PFAS chemistry and laboratory analysis methods* |
| Melanie Marty, Ph.D., and Christopher Banks, Ph.D., *Office of Environmental Health Hazard Assessment*<br>*Summary of current knowledge on the toxicological effects from PFAS in humans* |
| **11:30AM to 1:00PM - Lunch** |

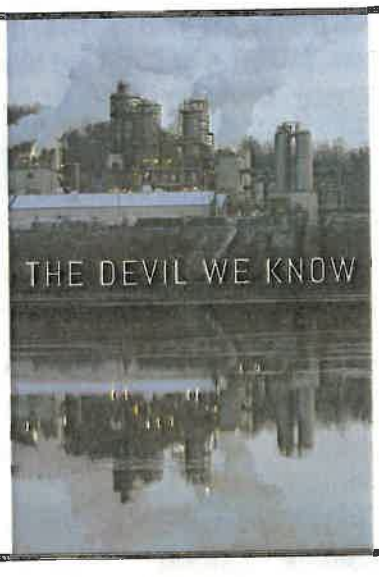



| ***PRESENT: WHAT IS THE CURRENT STATE OF KNOWLEDGE ABOUT PFAS? (1:00PM to 4:00PM)*** |
|---|
| ***Panel 2: Drinking Water – PFAS Data Analysis on Source and Treated Drinking Water and the Economic and Legal Impacts to Public Water Purveyors*** |
| Susan Glassmeyer, Ph.D., *National Exposure Research Laboratory, USEPA*<br>*Overview of current nationwide PFAS research in source and treated drinking water* |
| Matthew Small, Ph.D., P.G., *Region 9, USEPA*<br>*Summary of the latest data analysis tools being used by US EPA* |
| Matthew Edling, *Sher Edling LLP*<br>*Summary of the economic and legal impacts to public water purveyors from PFAS investigations* |
| ***Panel 3: Exposure Pathways – Impact to Human Body and Effects on Aquatic Ecosystems*** |
| Jim Strandberg, P.G., CHG, *Woodard & Curran*<br>*Overview of the various exposure pathways for PFAS to humans* |
| Kathleen Attfield, Ph.D, *Center for Healthy Communities, California Department of Public Health*<br>*Update on CDPH's effort to conduction biomonitoring in California* |
| Rebecca Sutton, Ph.D, *San Francisco Estuary Institute*<br>*Summary of research on PFAS effects to aquatic ecosystems* |

4:30PM-6:00PM

Cinema Showing:
"The Devil We Know"

Sierra Hearing Room,
2nd Floor



PFAS Per- and Polyfluoroalkyl Substances Technical Seminar

# Day 2 – Seminar Agenda
## Bryon Sher Auditorium, 2nd Floor

**8:30AM to 9:00AM** Registration (1st Floor)

| ***FUTURE: WHAT CAN WE DO FOR PFAS SOURCE CONTROL? (9:00AM to 11:30AM)*** |
|---|
| ***Panel 4: Approaches to Remediating, Treating, and Monitoring for PFAS*** |
| Rula Deeb, Ph.D., BCEEM, PMP, *Geosyntec*<br>*Latest approaches & technologies in PFAS remediation* |
| Eugene Leung, P.E., *Division of Drinking Water, State Water Resources Control Board*<br>*Update on new and upcoming treatment technologies for PFAS at public water systems and point of use* |
| Kavitha Dasu, Ph.D., *Battelle*<br>*Update on new or developing monitoring methods (target vs non-target) for PFAS* |
| ***Panel 5: Regulatory Approaches in Reducing PFAS in Consumer Products and Packaging*** |
| Simona Bălan, Ph.D., *Department of Toxic Substances Control*<br>*Update on DTSCs efforts to address PFASs as a class through the Safer Consumer Products process* |
| Robert Contreras, *CalRecycle*<br>*Update on CalRecycle's efforts to address PFAS in Recyclable Products* |
| Jen Jackson, *San Francisco Department of the Environment*<br>*Municipal level efforts to address PFAS* |
| **11:30AM to 1:00PM - Lunch** |
| ***DATATHON RESULTS WORKSHOP AND OPEN DISCUSSION (1:00PM TO 3:00PM)*** |
| **Closing Remarks (3:00PM to 3:30PM)**<br>Dan Newton, *Division of Drinking Water, State Water Resources Control Board*<br>Shahla Farahnak, *Division of Water Quality, State Water Resources Control Board* |

PFAS Per- and Polyfluoroalkyl Substances Technical Seminar

## Day 1 & 2 - Datathon Agenda

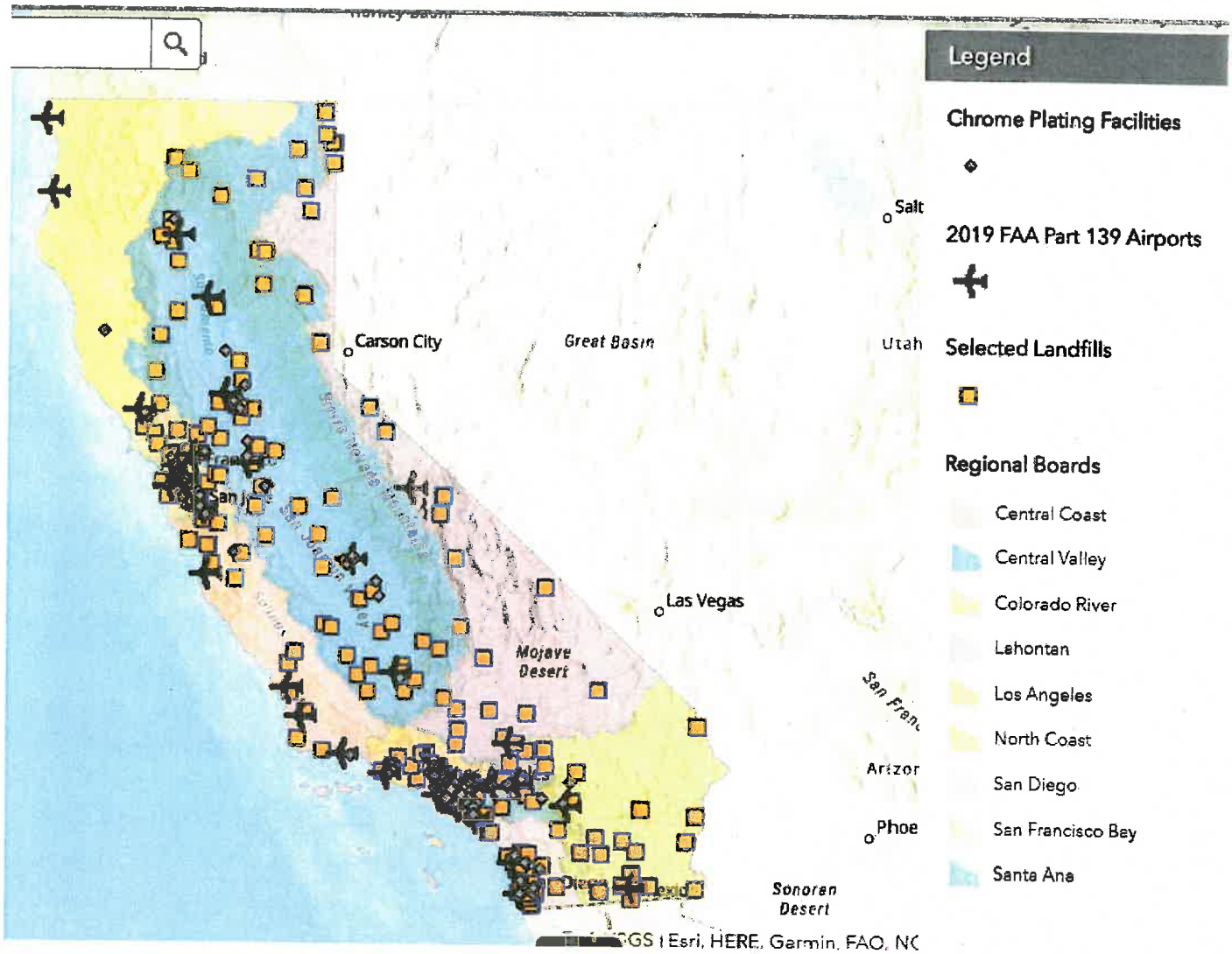
**8:30AM to 9:00AM – Registration (1st Floor)**

| December 4, 2019 | December 5, 2019 |
|---|---|
| Encouraged: **Attend Seminar Panel #1**<br>*(9:00AM to 11:30AM)*<br>Bryon Sher Auditorium, 2nd Floor | **Datathon**<br>9:00 AM to 11:30 AM<br>Rooms 230 and 240, 2nd Floor |
| **Datathon**<br>1:00 PM to 4:00 PM<br>Training Room 2 West/East, 2nd Floor | **Datathon Results Presentations and Open Discussion**<br>1:00 PM to 3:00 PM<br>Bryon Sher Auditorium, 2nd Floor |

Panel #1 at the Seminar provides background on PFAS that maybe useful for the project themes at the Datathon. On the afternoon of the 2nd day of the Seminar, Datathon data theme leaders will present their results to the attendees of the Seminar.

| |
|---|
| **Theme #1: PFAS Analysis and Intervention**<br>Interpretation of multiple time-point PFAS concentration data for a water district can provide insights into possible sources of contamination. However, thorough analyses can be complex and time-consuming. The goal of this project is to develop data analytic tools to expedite the analysis process for a water district, including statistical hypothesis testing of potential transport pathway factors, such as rainfall and proximity to potential sources.<br>***Data Scientist Lead: Melissa Salazar, Moulton Niguel Water District*** |
| **Theme #2: PFAS Biomonitoring: Possible Linkages to Drinking Water**<br>CDPH conducted biomonitoring for PFAS in selected regions in California. The relative contribution of PFAS in drinking water to body load is unknown. The goal of this project is to determine if drinking water PFAS levels are correlated with measured exposure concentrations using statistical hypothesis testing.<br>***Data Scientist Lead: Danny Kwon, California Department of Public Health*** |
| **Theme #3: PFAS Source Identification through Fingerprinting**<br>PFAS sources may be identified through chemical composition ratios. The goal of this project is to develop a tool that would be capable of analyzing data collected by the State Water Board through PFAS Investigations to identify potential sources of contamination. ***Data Scientist Lead: Sarabeth George, Region 2, Water Board*** |
| ***DATATHON RESULTS WORKSHOP AND OPEN DISCUSSION***<br>***(December 5, 2019, 1:00PM TO 3:00PM***<br>***Bryon Sher Auditorium, 2nd Floor)*** |

# 2019 Statewide PFAS Investigation




https://gispublic.waterboards.ca.gov/portal/apps/webappviewer/index.html?id=4feba1766c224dc99eadea06ef3bd019

**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 – JIM MCHARGUE, AMADOR COUNTY
TAG VICE CHAIR – TODD STORTI, BUTTE COUNTY
PROGRAM MANAGER – STACI HEATON

November 1, 2019

Ms. Jackie Buttle, Regulations Coordinator
Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

RE: Comments on Photovoltaic Modules (PV Modules) – Universal Waste Management; Department Reference Number: R-2017-04

Submitted via Email to regs@dtsc.ca.gov

Dear Ms. Buttle:

On behalf of the 24-member Rural Counties' Environmental Services Joint Powers Authority (ESJPA), thank you for the opportunity to provide additional comments to the Department of Toxic Substances Control (DTSC or Department) on the proposed regulations on Photovoltaic Modules (PV Modules) – Universal Waste Management. Our members represent Boards of Supervisors, Public Works Directors, Solid Waste Managers, and Recycling Coordinators. Most of our members are responsible for operating or overseeing their jurisdictions solid waste and household hazardous waste operations. In addition, many are directly involved with roadside clean-ups of illegally disposed of wastes.

We appreciate the Department proposing these regulations that are very important for our rural members, especially for solid waste load checking and household hazardous waste programs. The illegal disposal of photovoltaic modules, also known as solar panels, has been increasing in solid waste facilities and can cost over $1,000 per panel for disposal as hazardous waste. Regulation as universal wastes will allow for less complicated and less expensive disposal.

DTSC's proposed additional revisions provide a number of beneficial changes but some changes impose requirements that make management of PV modules more difficult. Our major comments are as follows:

- The removal of the term "photovoltaic module integrated devices" is appreciated to avoid increasing the confusion of the difference between photovoltaic and electronic devices.
- Allowing PV modules integrated into the structure of an electronic device to be managed as electronic devices will simplify the management of these integrated devices.
- The continued requirement for notification of DTSC 30 days prior is still extremely problematic for situations where PV modules are illegally disposed. Solid waste facilities and road side cleanup may encounter abandoned PV modules and collection of those modules to protect health and safety would be a violation if the collecting program had not notified DTSC. Compliance with this standard would require thousands of solid waste facilities, public works departments, and litter cleanup crews to notify DTSC even if no PV modules are expected. This massive notification, and the associated mandated annual report, is a waste of local and state resources and we request DTSC to allow notification after collection of PV modules in the case of abandoned PV modules.
- Commingling PV and electronic devices into the same container should be reinstated since it is likely that the same vendors that manage electronic devices will also accept PV modules once classified as universal wastes.

The ESJPA has provided written and/or verbal comments at the March 3, 2019 informal seminar and at previous workshops in 2012, 2016, and 2017. We look forward to finalizing these regulations including our comments that will provide more realistic management of photovoltaic modules. Thank you for the opportunity to provide additional comments. We look forward to DTSC incorporating additional realistic measures into these regulations.

If you have any questions, please feel free to contact me or Staci Heaton at (916) 447-4806.

Sincerely,

Larry R. Sweetser Jr.

Larry Sweetser
ESJPA Consultant

cc: ESJPA members
Staci Heaton, Program Manager

Detailed Comments

Section 66260.10 Definitions – "Photovoltaic module integrated device"
The removal of this definition provides more clarity on management of integrated devices and we support its removal. This support also applies to the definition of PV modules integrated device in Section 66260.10, the removal of definitions in Section 66273.9, and the associated references throughout the document.

Section 66260.10 Definitions – "Photovoltaic Modules"
We support the changes to clarify that integrated components that cannot be separated are to be managed as PV modules.

Section 66273.32. USEPA Notification, Department Notification, and Reporting 3 Requirements for Universal Waste Handlers.
Although changes to the reporting requirement were not included in this 15-day comment period, we urge DTSC to provide an allowance for notification of the Department after discovering PV modules that have been illegally abandoned either at solid waste facilities, roadsides, street corners, and public and private lands. Failure to allow post-notification will result in a violation of these regulations if PV modules are encountered and collected to reduce a potential environmental and public health threat. If there is no allowance for post-notification, thousands of California solid waste facilities, public works departments and litter clean up entities would be required to notify the Department and file annual reports in the event they encounter abandoned PV modules. This massive notification and reporting is a waste of local and state resources and is NOT NECESSARY.

Section (e) requires Department notification for handlers prior to handling any PV modules. This requirement will work for entities intending to handle PV modules but is unrealistic for solid waste facilities, household hazardous waste facilities, and illegal disposal cleanup programs. These facilities may not intend to handle PV modules but may inadvertently receive photovoltaics (hidden within loads of other materials) or accept them to prevent illegal disposal elsewhere. It is common for solid waste facilities to receive hazardous and other prohibited wastes hidden in loads and not identified until after the responsible party has left the site.

In addition, public works departments and other entities conduct roadside and abandoned waste cleanups and may encounter PV modules.

Mandatory notification 30 calendar days prior to accepting PV modules is not possible unless all of the thousands of programs send notification to the Department even if there is no intent to collect photovoltaics. There should be an allowance for notification after acceptance. We recommend the following change:

> (e) Department notification requirements for universal waste handlers of PV modules
>
> > (1) Any universal waste handler who might accept and accumulate, but not treat, any PV modules from an offsite source shall submit to the

Department, at the address given in subsection (h) of this section, a written notification containing the information specified in subsection (e)(2) of this section no later than 30 calendar days prior to accepting any PV modules or no later than 30 calendar days after acceptance of abandoned PV modules or PV cells.

§ 66273.34. Labeling/Marking.
Removal of the allowance to combine PV modules with electronic devices and CRTs is inconsistent and lacks clarity since it is likely that the same vendors that accept electronic devices will also accept PV modules. Facilities accepting all of these items should not have to created separate areas or waste valuable storage space. We request the following change be reinstated with an allowance for reduced wording on the label:

(h) In lieu of labeling individual electronic devices, CRTs, PV modules, and/or containers of CRT glass pursuant to subsections (d) through (f) of this section, a universal waste handler may combine, package, and accumulate those universal wastes in appropriate containers or within a designated area demarcated by boundaries that are clearly labeled with the applicable portion(s) of the following phrase: "Universal Waste-Electronic Device(s)/CRT(s)/CRT Glass/PV module(s)".

§66273.37 Response to Releases.
Expanding the existing allowance to broken PV modules for leaking, broken, or otherwise damaged universal wastes to be managed as universal waste is greatly appreciated.

§ 66273.39. Tracking Universal Waste Shipments.
Although this requirement exists for other universal wastes, tracking incoming universal wastes serves no useful purpose for handlers such as household hazardous waste facilities and solid waste facilities. These programs handle all types of hazardous wastes coming into the program and the wastes are commingled with other compatible waste types. Other incoming hazardous wastes to these programs, such as paints, pesticides, solvents, cleaners, automotive products are not required to be tracked by name, address, types, and amounts. The requirements on universal wastes are **excessive and serve no useful purpose** for the handler and impose an unreasonable burden. This type and amount of wastes are recorded when the wastes are shipped. There is no justification or benefit for tracking these wastes on an incoming basis.

In addition, it is proposed to tack PV modules by type which is an even more excessive and burdensome requirement.

We propose that this incoming tracking requirement be removed for PV modules and all other universal wastes. We recommend the following changes:

~~(a) Receipt of shipments. A universal waste handler shall keep a record of each shipment of universal waste received at the universal waste handler's facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:~~

~~(1) The name and address of the originating universal waste handler from which the universal waste was sent;~~
~~(2) The quantity [count or weight, consistent with, for example, section 66273.32, 12 subsection (d)] of each type of universal waste received (e.g., batteries, thermostats, 13 lamps, electronic devices, CRTs, CRT glass, PV modules); and 14~~
~~(3) The date of receipt of the shipment of universal waste.~~

In addition, current tracking requirements allow use of a generic generator term and for aggregating the quantity. This makes the tracking requirement less burdensome but still excessive and should be removed as follows:

~~(b) For purposes of compliance with subsection (a) of this section, a universal waste handler who receives universal wastes from household generators and conditionally exempt small quantity universal waste generators, as defined in section 66273.9, may~~
~~(1) in lieu of the originating universal waste handler's name and address, record "household generator" and/or "CESQUWG", and~~
~~(2) record the total quantity of each type of universal waste as an aggregate from households and/or conditionally exempt small quantity universal waste generators, as defined in section 66273.9.~~

# Staff Analysis of CARE's 2018 California Carpet Stewardship Program Annual Report and Chapter 0 Report

Fareed Ferhut and Robyn Gillum

November 19, 2019

CalRecycle

## Selected Program Dates


2 CalRecycle

## Informational Item D2:

Informational Item for the Carpet America Recovery Effort 2018 Annual Report

Public Notice: https://www2.calrecycle.ca.gov/PublicNotices/Details/3821

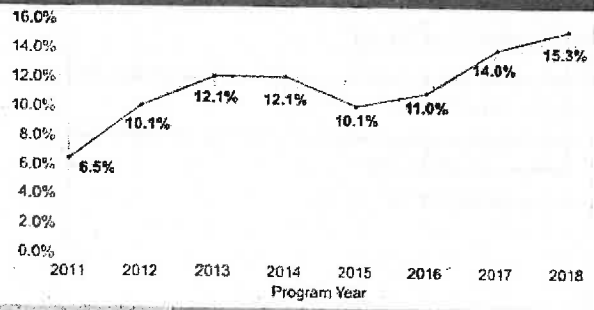
3 CalRecycle

## Program Performance Comparison 2017-2018

| Metric | 2017 | 2018 |
|---|---|---|
| Recycling Rate (% of discards) | 14% | 15.3% |
| Source Reduction (avg. wt. lb/yd$^2$) | 4.39 lb./yd$^2$ | 4.39 lb./yd$^2$ |
| Recyclability (% yield) | 48% | 53% |
| Reuse | 414,416 lbs. | 733,701 lbs. |
| CARE Supported Drop-off Sites | 44 sites | 53 sites |
| Education & Outreach Budget | $785,000 | $1,300,000 |
| CAAF + Cement Kiln | 1,917,000 lbs. | 0 lbs. |
| WTE | 9,800,000 lbs. | 1,800,000 lbs. |
| Landfill, including process waste | 259,000,000 lbs. | 251,000,000 lbs. |

4 CalRecycle

## CARE's Reported Recycling Rate




5 CalRecycle

## Action Item D1:

Consideration of CARE's Implementation of Chapter 0 of its 2018-2022 California Carpet Stewardship Plan

Public Notice: https://www2.calrecycle.ca.gov/PublicNotices/Details/3822

6 CalRecycle

## Staff's Analysis of the Chapter 0 Report

**CARE did not fully implement Chapter 0 of its approved plan**

- The economic analysis did not demonstrate that the funding mechanism is sufficient for CARE to meet goals
- CARE's modifications to its convenience goals were not consistent with the results of the Convenient Collection Study
- CARE failed to complete audits of collector/sorters



## Stakeholder Comments

- Two letters provided recommendations regarding the content and implementation of the Chapter 0 Report and CARE's program
- Two letters recommended disapproval or conditional approval



## Option 1

**Defer compliance determination regarding CARE's Chapter 0. Direct staff to:**

i. Work with CARE to establish timelines for CARE to fulfill all remaining requirements

ii. Monitor CARE's fulfillment of the remaining requirements by the agreed upon timelines



## Option 2

- Find that CARE did not comply with Chapter 0 of its approved plan and did not fulfill all the requirements
- Refer CARE for enforcement



## New AB 729 Requirements

- Submit a contingency plan
- Set up a trust fund or escrow account
- Establish a system of differential assessments



## Staff Recommendation & Next Steps

**Staff recommend Option 1**

Staff will work with CARE to establish timelines by January 13, 2020, to fulfill:

- All the remaining requirements specified in CalRecycle's October 16, 2018, RFA
- The requirements of AB 729

## Resources

- CalRecycle Carpet Stewardship Team Email: carpet@calrecycle.ca.gov
- Subscribe to the CalRecycle Carpet Listserv: https://www2.calrecycle.ca.gov/Listservs/Subscribe/103

CalRecycle

# Monthly Public Meeting

10:00 A.M., November 19, 2019
Cal/EPA Building – Byron Sher Auditorium

## A. DIRECTOR'S REPORT

***Presentations or discussions by the Director and/or Executive Offices regarding department matters, legislative updates, public affairs, or initiatives.***

## B. PUBLIC COMMENT*

***People may speak on any matter concerning CalRecycle with the exception of items appearing elsewhere on this agenda or items related to pending adjudicative (certification or enforcement) proceedings.***

*Please note that while CalRecycle affords members of the public the opportunity to participate by Webcast, CalRecycle strongly encourages public comments to be made in person.

## C. PROGRAM AND ISSUE UPDATES

**Action Items**
No actions at this time

**Information Items**
1. 2019 Final Disposal Reporting Status
   Department Staff Contact: Eileen.Hogue@CalRecycle.ca.gov

## D. POLICY MANDATES/WORKSHOPS/RULEMAKING PROCEEDINGS

***Possible decisions or discussions by department staff regarding any order instituting a rulemaking proceeding to develop and adopt regulations and/or policy guidelines specifying the procedures to implement or revise program guidelines or requirements such as Product Stewardship, Commercial Recycling, Organics Roadmap or the 75% initiative.***

**Action Items**
1. Consideration of CARE's Implementation of Chapter 0 of its 2018-2022 California Carpet Stewardship Plan
   Department Staff Contact: Robyn.Gillum@calrecycle.ca.gov
   Public Notice

**Information Items**
1. Public Hearing on Regulations Concerning Designated Approved Collectors
   November 27, 2019 9:30AM-11:30AM (Sacramento)
   Department Staff Contact: Ana-Maria.Stoian-Chu@CalRecycle.ca.gov

2. Informational Item for the Carpet America Recovery Effort 2018 Annual Report
   Department Staff Contact: Robyn.Gillum@calrecycle.ca.gov
   Public Notice

3. Workshop to Discuss DRAFT Criteria and Program Development for the Beverage Container Redemption Pilot Project Grant Funding, FY 2019–20
   December 3, 2019 1:30 PM-3:00 PM (Sacramento)
   Department Staff Contact: Divina.Cadiz@Calrecycle.ca.gov
   Public Notice

4. Reasonable Financial Return for the Processing Payment Emergency Rulemaking
   Department Staff Contact: Sharon.Siozon@calrecycle.ca.gov

## E. BEVERAGE CONTAINER RECYCLING PROGRAM

***Possible decisions or announcements regarding BCRP matters including fund condition, rates, approval of new/renewed certifications, or enforcement actions.***

**Action Items**

No actions at this time

**Information Items**

1. Update of Imported Empty Beverage Container Reporting and Inspection Program
   Department Staff Contact: Ben.Shelton@CalRecycle.ca.gov

## F. GRANT AND LOAN PROGRAMS

***Possible decisions or overview regarding matters related to the used oil and household hazardous waste programs.***

**Action Items**

No actions at this time

**Information Items**

1. Approval of a Recycling Market Development Zone (RMDZ) loan in the amount of $2,000,000 to Franklin Construction, Inc. (Recycling Market Development Revolving Loan Subaccount, FY 2019–20)
   Department Staff Contact: Adam.StClair@CalRecycle.ca.gov
   Public Notice

2. Awards for the Farm and Ranch Solid Waste Cleanup and Abatement Grant Program (Farm and Ranch Solid Waste Cleanup and Abatement Account, Fiscal Year 2019–20)
   Department Staff Contact: Stephanie.Becker@CalRecycle.ca.gov
   Public Notice

## G. SOLID WASTE AND TIRE FACILITIES

***Possible decisions or reconsiderations to petitions for a facility or landfill permit or modification; and, possible determinations of enforcement actions, clean-up requirements; or LEA training.***

**Action Items**

1. Calexico Solid Waste Site – Imperial County, Revised Solid Waste Facilities Permit, Action Needed December 16, 2019
   Department Staff Contact: Jeff.Hackett@CalRecycle.ca.gov
   Public Notice

2. EDCO Recovery and Transfer – City of San Diego, Revised Solid Waste Facilities Permit, Action Needed December 17, 2019
   Department Staff Contact: Cody.Oquendo@CalRecycle.ca.gov
   Public Notice

**Information Items**

Nothing to report at this time

## H. COMPLIANCE AND ENFORCEMENT HEARINGS

***Hearings for Compliance and Enforcement matters and Administrative Appeals which are required to have a public hearing prior to the Department taking action***

**Action Items**

No actions at this time

**Information Items**

Nothing to report at this time

## I. LOCAL ASSISTANCE

***Possible approval or discussion of locally adopted planning documents, bi-annual reviews, compliance and enforcement actions, or other program-related proceedings.***

**Action Items**

No actions at this time

**Information Items**

Nothing to report at this time

## J. ELECTRONIC WASTE RECYCLING PROGRAM

***Possible decisions or overview regarding the reuse, recycling, and handling of covered electronic devices; including matters related to fees, recyclers, enforcement, claim reviews and adjustments.***

**Action Items**

No actions at this time

**Information Items**
Nothing to report at this time

## K. OTHER

***Possible decisions or discussions regarding the development or implementation of a new or an amendment to policies and procedures for grants, loans and contracts. Please note that grants, loans, or scopes of work will be agendized specific to program area unless otherwise noted here.***

**Action Items**
No actions at this time

**Information Items**
Nothing to report at this time

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We want to assure all of our stakeholders that transparency and stakeholder involvement remains a high priority for CalRecycle. In keeping with a history of providing stakeholders with information about programs, activities, and departmental decisions, CalRecycle has a public noticing site. To review Final CalRecycle Decisions and other department activities, please go to: http://www.calrecycle.ca.gov/Actions/ or http://www.calrecycle.ca.gov/BevContainer/Notices. For meeting participation, listserv, and feedback information, please go to: http://www.calrecycle.ca.gov/PublicMeeting/

CalEPA
California Environmental Protection Agency

Gavin Newsom
*Governor*

Jared Blumenfeld
*Secretary for Environmental Protection*

# Unified Program Newsletter – October 2019

**Contents**



## CalEPA

### CERS NextGen Update

CalEPA kicked off a Business Process Analysis and Re-Engineering project, CERS NextGen, last March to thoroughly examine the current CERS tool for issues and to look at the future needs of its users. Between April and August, CalEPA and our contractor documented the existing processes and worked with dozens of stakeholder representatives from businesses, local governments, state agencies, and US EPA to validate those processes. Based the information from the stakeholder, analysis of previous survey responses, and 240+ proposed enhancements that had been submitted since CERS went live, we have identified over 120 issues, or "pain points". This provided the basis for a set of draft recommendations and high level functions for the potential next generation of CERS. These draft recommendations and the high level functions will be shared and discussed with the stakeholders in November through a number of working sessions. The outcome will be to finalize a future direction for CERS with defined processes founded on well-defined business goals and objectives. In December and January, we will be engaging with stakeholders again to help craft a set of mid-level requirements for a solution that fulfill those defined business goals and objectives.

## State Water Board

### Report 6

The State Water Resources Control Board (State Water Board) would like to take the opportunity to thank all Unified Program Agencies (UPAs) for successfully submitting the Semi-Annual UST Program Report 6 (Report 6) on time for the January-June, 2019, period. We appreciate all the hard work to produce timely and accurate Report 6 submittals. Report 6 is an essential report for the State Water Board to report data to the United States Environmental Protection Agency to assess national compliance with the federal underground storage tank (UST) program.

Report 6 is available in the California Environmental Reporting System (CERS) UST Program Reports. The Report 6 data is derived automatically from the inspection reports as they are uploaded to CERS. CERS identifies the technical compliance rate performance measure through specific violations from the 2019 violation library and automatically calculates the necessary information for Report 6. Paperless reporting of the Report 6 is available, and the State Water Board encourages UPAs not yet approved for paperless reporting to continue or begin the process to receive approval for paperless reporting. Prior to being approved for paperless reporting, facility information in CERS including installation dates, system construction, and monitoring information needs to be current and correct. Currently, 36 UPAs are approved for the paperless reporting process.

For UPAs to begin the Report 6 data review process for paperless reporting, please contact Mr. Daniel Firth at (916) 341-5711 or by email at Daniel.Firth@waterboards.ca.gov or with general questions on the Report 6, please contact Mr. Steven Mullery at (916) 341-5850 or by email at Steven.Mullery@waterboards.ca.gov.

### California International Code Council Underground Storage Tank Inspector Certification Renewal Updates

The State Water Board, in collaboration with UPA representatives from each of the four regions and the International Code Council (ICC), has updated the ICC California UST Inspector Certification renewal guidelines for continuing education contact hours. At the same time, ICC has updated the application form for renewal of certification. The revision to guidelines is the first since 2007 and incorporates revisions to update language, reference current regulatory requirements, and update language for

qualifying subject matter. Representatives from the UPAs and ICC provided significant support during this process and their time is appreciated.

The State Water Board would like to recognize the following individuals for their dedication and support with the guidance: John Elkins, Sacramento County Environmental Management Department; Monica Hanley, Santa Monica Fire Department; Royce Long, Los Angeles City Fire Department; Ernie Medina, Bakersfield City Fire Department; Lindsay Morgado, Santa Clara County Fire Department; Eric Scott, Glenn County Air Pollution Control District; Mary Barnett, International Code Council; and Doug Hatch, International Code Council.

In addition to our external partners, we would like to extend our appreciation to those at the State Water Board who provided their insight and expertise to ensure all moving parts came together seamlessly. This includes representatives of the Office of Enforcement, Office of Chief Counsel, and UST – Leak Prevention Unit.

Information on remaining current with ICC certification, a copy of the State Water Board letter to Local Agencies regarding implementation of contact hours for renewal of CA UST ICC certification, and information on the use of contact hours can be found under the UST Inspector section of the UST Program – Certification and Training Information webpage
(https://www.waterboards.ca.gov/water_issues/programs/ust/training/icc_cert_info.shtml#inspector).

For more information regarding the ICC continuing education renewal updates, please contact Ms. Laura Fisher at (916) 341-5870 or by email at Laura.Fisher@waterboards.ca.gov.

**Government Owned Tanks Initiative**

State Water Board's Office of Enforcement conducts inspections at government owned tanks (GOT) facilities as part of the GOT Initiative. The purpose of the GOT Initiative is to gain compliance with state and federal laws at UST facilities owned and/or operated by government agencies by conducting file reviews, performing site inspections, and taking enforcement actions when appropriate. For more information regarding the GOT Initiative, please visit the UST Enforcement website
(https://www.waterboards.ca.gov/water_issues/programs/enforcement/tanks.html).

GOT Initiative compliance and enforcement letters from 2014 to present can be found on the Government Tank Initiative - Compliance and Enforcement Letters website
(https://www.waterboards.ca.gov/water_issues/programs/enforcement/compliance_enforcement_letters).

For more information regarding the GOT Initiative, please contact Mr. Brian Taylor at (916) 323-0600 or by email at Brian.Taylor@waterboards.ca.gov.

**UST Regulation Package for the Storage of Diesel Containing up to 20 Percent Biodiesel Submitted to the Office of Administrative Law for Review**

The complete UST regulation package for the storage of diesel containing up to 20 percent biodiesel (B20) has been submitted to the Office of Administrative Law (OAL) for a 30 business-day review. The proposed UST regulations amends California Code

of Regulations, title 23, division 3, chapter 16, article 3, sections 2631 and 2631.2. The proposed amendment to section 2631 recognizes B20 as an equivalent to diesel stored in double-walled UST systems, unless any material or component of the UST system is determined not compatible with B20. The adopted amendments also delete section 2631.2, which provides a temporary variance for biodiesel blends from June 1, 2009, to June 1, 2012, because it is inoperative. Once approved by OAL, the next step is for the package to be filed with the California Secretary of State. An effective date will be provided once the State Water Board has been advised by OAL.

More information on the rulemaking package is available on the UST Program's Proposed Biodiesel UST Regulations webpage (https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/bio_regs/bio_fsor.pdf).

For more information regarding the proposed UST Biodiesel Regulations, please contact Ms. Laura Fisher at (916) 341-5870 or by email at Laura.Fisher@waterboards.ca.gov.

## Accessible UST Forms in Regulation

On October 14, 2017, the California government passed Government Code, title 2, division 3, chapter 5.6, section 11546.7 which requires compliance with the accessibility standards for disabled or impaired persons. The State Water Board does not discriminate based on a disability or impairment, nor does it exclude persons with a disability or impairment from participation in any program or activity. Accordingly, all State Water Board programs will provide access to services and facilities to persons with disabilities in accordance with Title II of the Americans with Disabilities Act to include digital accessibility. Without digital accessibility, millions of Californians experience barriers when using the internet to search for services, file forms, or access content on state government websites.

Currently State Water Board staff are modifying the forms found in the UST regulations. While the function of some forms will be amended in a forthcoming rulemaking package, the modifications for accessibility of the forms is currently in progress. These forms are in regulations and cannot be modified, to include changing the format, size, or adding of company logos or advertisements. The modified forms will initially be available only in portable document format (PDF).

The PDF forms require a recent version of Adobe Reader to view. The Adobe Acrobat Reader may already be installed on your computer as a "plug-in" or "helper application" for your web browser. To find out, click on the PDF link for the document you are interested in. If the Adobe Acrobat Reader is properly installed on your computer, the Reader will either download or automatically open a PDF copy of the document, depending on your browser and how it is configured. If the Adobe Acrobat Reader is not installed on your computer, it can be found, free of charge, at the Adobe Acrobat Reader download page

(http://www.adobe.com/products/acrobat/readstep2/).

For more information regarding the accessible forms, please contact Mr. Tom Henderson at (916) 319-9128 or by email at Tom.Henderson@waterboards.ca.gov.

**Closing Tanks in Previously Archived 'Unaccepted' Submittals**

Some facilities owners/operators have not properly reported in CERS closed or removed USTs in archived submittals that were not accepted by the UPA because they do not have access to the archived submittals. The following process resolves this dilemma:

1. The UPA must set the submittal status of the most recent archived submittal that includes these tanks to = Accepted or Accepted with Conditions and include an Inspector Comment: "This submittal has been accepted solely to enable the tank(s) to be properly reported closed in CERS."

2. The current facility creates a new submittal based on the archived accepted submittal. This ensures that no new tank identifications (IDs) are created. If this submittal closes all tanks at the facility, then the UST Facility Operating Permit Application Type of Action must = Permanent Facility Closure. The tank Type of Action must be = Closed in Place or Removed and the install date and closure date for each tank must be provided. If the install date is unknown use 1/1/1900. If there is no current facility the UPA can add themselves to the previous business organization and make this closure submittal on their behalf. When making a closure submittal on the behalf of the previous business organization, add a comment that the submittal is made on behalf of the previous business organization solely to report the closure/removal of the tanks.

3. The UPA accepts this submittal or accepts with conditions. A comment may be appropriate to clarify that this submittal was to correctly report previously closed or removed tanks by the previous business organization.

For more information regarding closing tanks in previously archived 'Unaccepted' submittals or other questions relating to reporting closed or removed tanks in CERS, please contact Mr. Dan Firth at Daniel.Firth@waterboards.ca.gov.

**Accessing Tank IDs in Previously Archived 'Accepted' Submittals**

Some facilities have archived, accepted submittals for tanks that were active at the time. With the release of CERS 3, active tank IDs, CERS Tank IDs, and tank data are displayed when a new facility starts a submittal to help prevent creating duplicate tanks in CERS. UPAs should work with new facilities to ensure they use the: 1) existing CERS Tank ID; and 2) tank data for their initial submittal, regardless of whether it is for an active tank or to report a tank closure/removal that was last reported active in the archived submittal. The new facility can edit the Tank ID field if needed for their use but the CERS Tank ID and the tank's associated data will be incorporated automatically in their initial submittal.

For more information regarding accessing tank IDs in previously archived 'Accepted' submittals or other questions relating to reporting closed or removed tanks in CERS, please contact Mr. Dan Firth at Daniel.Firth@waterboards.ca.gov.

## DTSC

### 2019 Verification Questionnaire Report Cycle Update

The Department of Toxic Substances Control's (DTSC) 2019 EPA ID Number Verification Questionnaire report cycle is still open. Over 82,000 EPA ID numbers have been verified. The Verification Questionnaire is completed through the electronic Verification Questionnaire (eVQ) System. Hazardous waste handlers that need assistance with the Verification Questionnaire can email eVQ@dtsc.ca.gov or call 1-877-454-4012, Monday - Friday from 9:00 a.m. to 4:00 p.m. (PDT).

(https://evq.dtsc.ca.gov/Home.aspx)

### Violations Scoring Procedure

The violations scoring procedure (VSP) regulations, found at California Code of Regulations, title 22, sections 66271.50 through 66271.57, took effect on January 1, 2019. The VSP regulations apply to all operating permitted hazardous waste facilities, except for those facilities *solely* authorized under a post-closure permit or order, or a permit or permit modification for closure only. The regulations require DTSC to comprehensively evaluate each hazardous waste facility's compliance history as part of the permit decision-making process. The regulations establish a systematic process for evaluating and characterizing a hazardous waste facility's compliance with substantive hazardous waste management requirements. Please refer to DTSC's VSP webpage for information.

(https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I2AD19BB73CDC4B46B5CE80C2B4C2AA83&originationContext=documenttoc&transitionType=Dehttps://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I2AD19BB73CDC4B46B5CE80C2B4C2AA83&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)fault&contextData=(sc.Default))

(https://dtsc.ca.gov/violations-scoring-procedure/)

On October 9, 2019, DTSC released its first statewide hazardous waste facility scorecard ranking the 78 operating permitted facilities in California that treat, store, or dispose of hazardous waste. The press release provides additional information.

(https://dtsc.ca.gov/violations-scoring-procedure/)

(https://dtsc.ca.gov/2019/10/09/vsp-news-release/)

On October 21, 2019, DTSC will hold two informational webinars on the VSP. Please check the VSP webpage for information on webinar times and registration, to be posted after October 14, 2019.
(https://dtsc.ca.gov/violations-scoring-procedure/)

***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**

CalEPA
California Environmental Protection Agency

Gavin Newsom
*Governor*

Jared Blumenfeld
*Secretary for Environmental Protection*

# Unified Program Newsletter – November 2019

**Contents**



## CalEPA

### CalEPA Welcomes New Deputy Secretary for Environmental Policy and Emergency Response

Caroline Godkin
(https://www.gov.ca.gov/2019/08/29/governor-newsom-announces-appointments-8-29-19/)

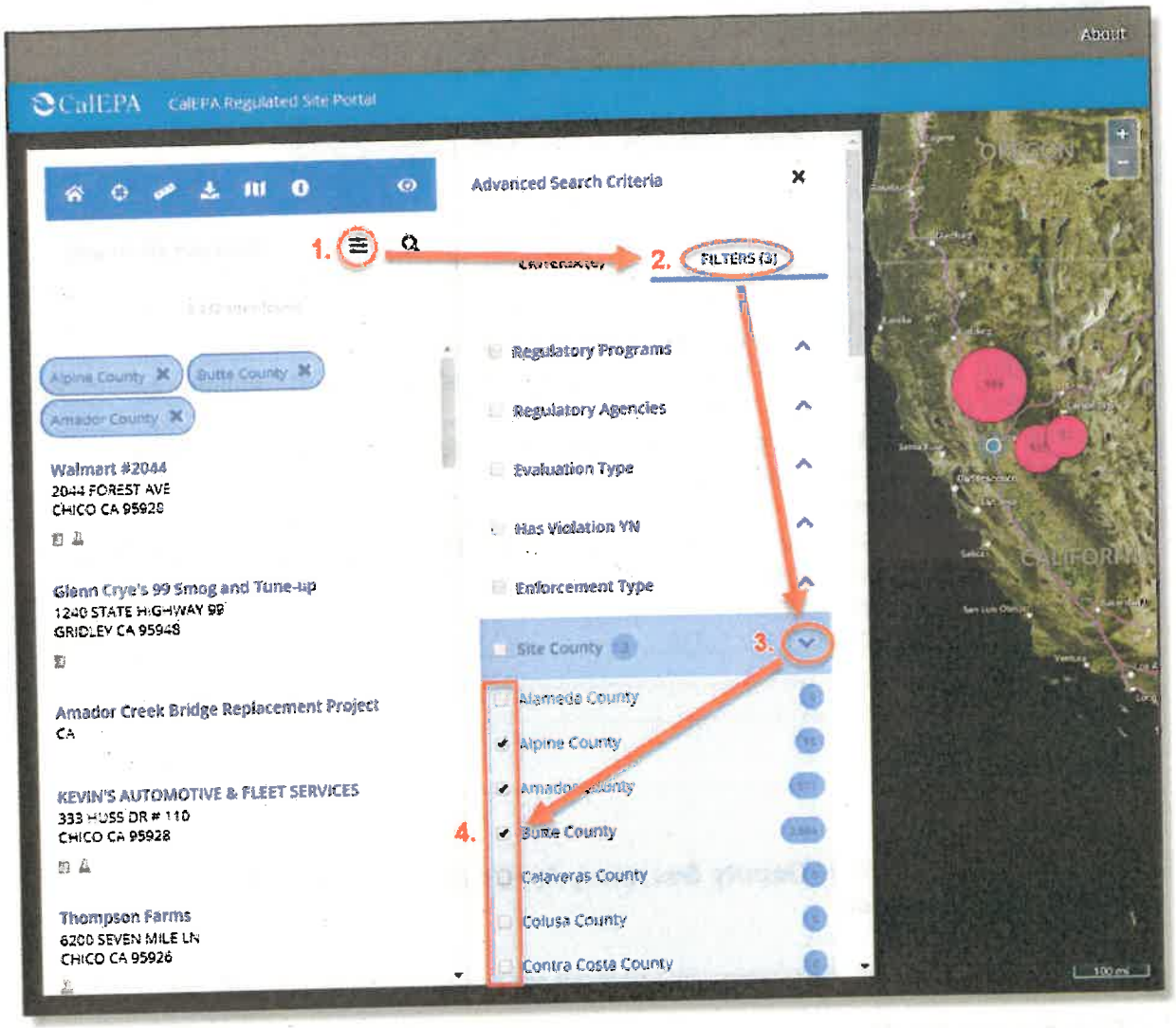
### CERS Knowledge Base, Help Articles and FAQs

(https://cers.calepa.ca.gov/newsletter-articles)

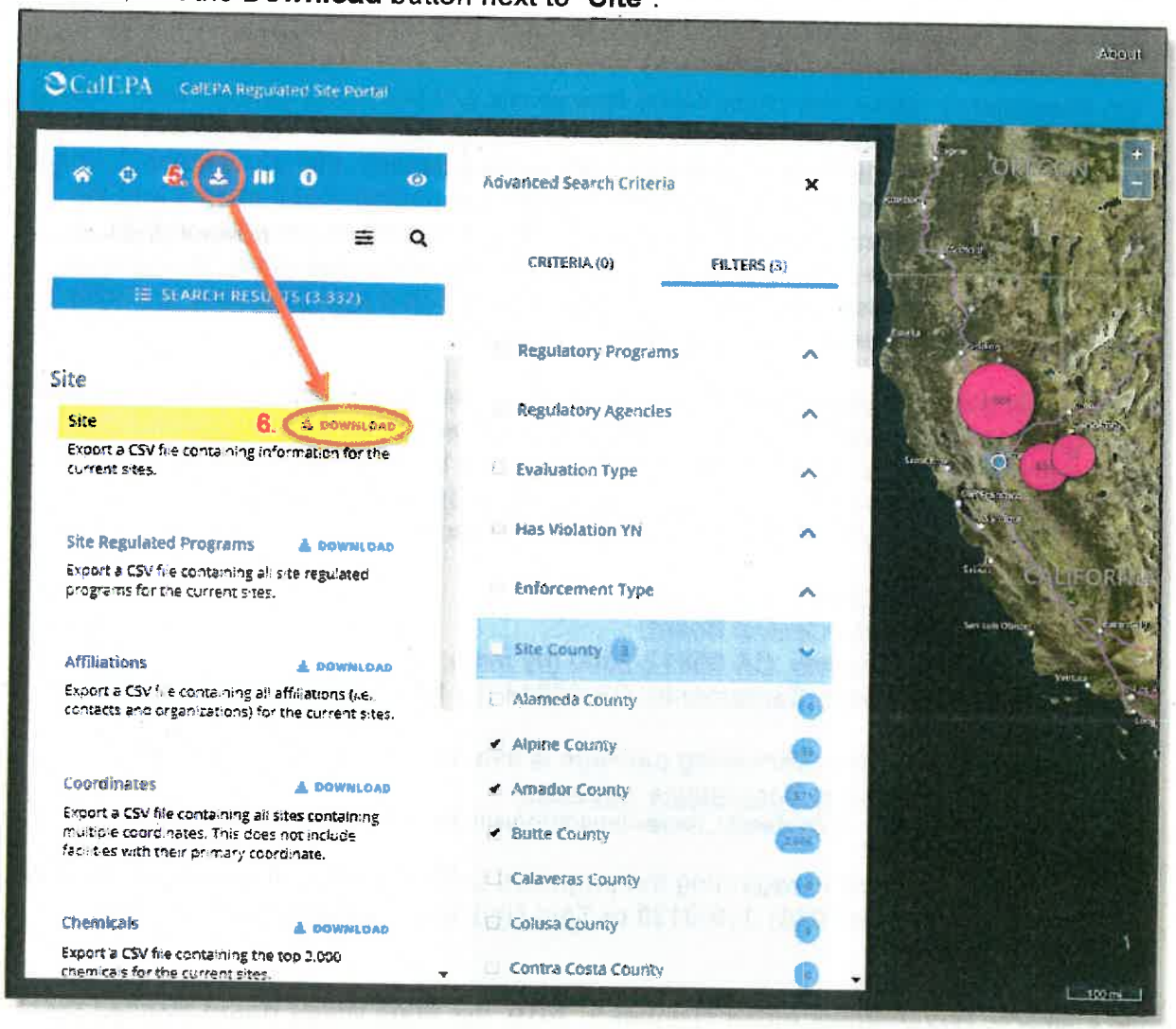
### CalEPA Regulated Site Portal: How to Download Regulated Facilities by County

The CalEPA Regulated Site Portal now features the ability to download search results filtered by county. Please see the following instructions on how to utilize this new feature and export the filtered search results to Microsoft Excel.

1. Open your web browser and navigate to the CalEPA Regulated Site Portal: https://siteportal.calepa.ca.gov/
2. Select the **Advanced Search Criteria** icon.
3. Select **Filters**.
4. Select the **drop-down arrow** to the right of the **Site County** filter.
5. Check one or more **checkboxes** to filter by **Site County**.


About
CalEPA
CalEPA Regulated Site Portal
Advanced Search Criteria
1.
2.
FILTERS (3)
Alpine County
Butte County
Amador County
Walmart #2044
2044 FOREST AVE
CHICO CA 95928
Glenn Crye's 99 Smog and Tune-up
1240 STATE HIGHWAY 99
GRIDLEY CA 95948
Amador Creek Bridge Replacement Project
CA
KEVIN'S AUTOMOTIVE & FLEET SERVICES
333 HUSS DR # 110
CHICO CA 95928
Thompson Farms
6200 SEVEN MILE LN
CHICO CA 95926
Regulatory Programs
Regulatory Agencies
Evaluation Type
Has Violation YN
Enforcement Type
Site County
3.
Alameda County
Alpine County
Amador County
4.
Butte County
Calaveras County
Colusa County
Contra Costa County

6. Select the **Download** icon.
7. Select the **Download** button next to "**Site**".




8. The exported .csv document is compatible with Microsoft Excel. Opening the document will appear as shown below.

| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| 1 | SiteID | SiteName | Address | City | ZIP | County | Latitude | Longitude |
| 2 | 327 | VASU GAS & FOOD | 2401 5TH AVE | OROVILLE | 95965 | Butte Cou | 39.50131 | -121.565 |
| 3 | 756 | 5TH AVENUE BODY | 2535 S 5TH AVE | OROVILLE | 95965 | Butte Cou | 39.49883 | -121.565 |
| 4 | 802 | 7 11 Materials Inc F | 517 RONEY TRAIL | CHICO | 95926 | Butte Cou | 39.86417 | -121.953 |
| 5 | 926 | DHARMINDER JANI | 1096 EAST AVE | CHICO | 95926 | Butte Cou | 39.76125 | -121.834 |
| 6 | 1027 | VIKRAMJIT GILL | 101 MAIN ST | CHICO | 95928 | Butte Cou | 39.73114 | -121.841 |

Site

## State Water Board

### Notice of Proposed Underground Storage Tank Reporting Regulations and Opportunity to Provide Comment

On November 1, 2019, the State Water Resources Control Board (State Water Board) distributed a Lyris email notifying underground storage tank (UST) stakeholders of proposed amendments to the California Code of Regulations, title 23, division 3, chapter 16, article 3 (UST Reporting Regulations) regarding reporting requirements and the opportunity to comment on the amendments. The proposed amendment to UST Regulations, sections 2713 and 2716 changed the reporting requirements of owners and operators, and local agencies. The State Water Board also proposes to modify certification, inspection, and testing forms in regulation.

The public comment period for the proposed UST Reporting Regulations is now open and ends on December 17, 2019, at noon. Any interested person may submit written comments relevant to the proposed regulatory action to the State Water Board's Clerk to the Board by email at commentletters@waterboards.ca.gov, by fax at (916) 341-5620, or by mail or hand delivery addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100, Sacramento, CA 95812-2000 (by mail); or
1001 I Street, 24th Floor, Sacramento, CA 95814 (by hand delivery).

More information on the rulemaking package is available on the UST Program's Proposed UST Reporting Regulations webpage.
(https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/repregs/index.html)

For additional information regarding the proposed UST Reporting Regulations, contact Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

### Diesel Exhaust Fluid

In a letter to stakeholders dated October 2, 2019, the State Water Board clarified the definition of diesel exhaust fluid (DEF). DEF is used in Selective Catalytic Reduction technology to reduce the emissions of oxides of nitrogen from diesel engine exhaust. Standard DEF is 32.5 percent urea solution; however, it can vary slightly in composition, generally in a range of 31.8 – 33.2 percent urea solution. Standard DEF is not a hazardous substance as defined in Health and Safety Code, chapter 6.7, section 25281 and is not regulated under part 280 of 40 Code of Federal Regulations.

The State Water Board letter on DEF can be found at the UST Program's website.
(https://www.waterboards.ca.gov/ust/tech_notices/docs/letter_def_2019.pdf)

If you have any additional questions regarding this matter, please contact Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov or Mr. Tom Henderson at (916) 319-9128 or Tom.Henderson@waterboards.ca.gov.

**UST Regulation Package for the Storage of Diesel Containing up to 20 Percent Biodiesel Submitted to the Office of Administrative Law for Review**

The complete UST regulation package for the storage of diesel containing up to 20 percent biodiesel (B20) has been submitted to the Office of Administrative Law (OAL) for review. The proposed UST regulations amends California Code of Regulations, title 23, division 3, chapter 16, article 3, sections 2631 and 2631.2. The proposed amendment to section 2631 recognizes B20 as an equivalent to diesel stored in double-walled UST systems, unless any material or component of the UST system is determined not compatible with B20. The adopted amendments also delete section 2631.2, which provides a temporary variance for biodiesel blends from June 1, 2009, to June 1, 2012, because it is inoperative. Once approved by OAL, the next step is for the package to be filed with the California Secretary of State. An effective date will be provided once the State Water Board has been advised by OAL.

More information on the rulemaking package is available on the UST Program's Proposed Biodiesel UST Regulations webpage
(https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/bio_regs/)

For additional information regarding the proposed UST Biodiesel Regulations, please contact Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

**UST Closure Documentation**

Written closure documentation is an important and required program element for Unified Program Agencies (UPAs) to provide to owners/operators once USTs are properly closed in place or removed in accordance with Health and Safety Code, chapter 6.7, section 25298(c) and UST Regulations, section 2672. UST closure is not considered complete without proper closure documentation. Proper closure includes soil and/or water sampling, reporting unauthorized releases, and working with local UPA staff to ensure closure requirements are being met in a timely fashion and to the satisfaction of the UPA. UPAs have a responsibility to maintain this closure documentation in accordance with Title 27, section 15185, and must provide this information upon request of the State Water Board. This subject is addressed further at our Frequently Asked Questions page.
(https://www.waterboards.ca.gov/ust/leak_prevention/faq15.shtml)

For additional information regarding UST closure documentation, please contact Ms. Laura Fisher at (916) 341-5870 or Laura.Fisher@waterboards.ca.gov.

**Tank Calibration Charts**

Unidocs is now providing a growing collection of tank calibration charts as a service to the public. This is not a complete set of tank calibration charts covering the UST universe; however, if you cannot find a specific chart now, check back periodically as the page will be updated as additional charts become available.

Additionally, Unidocs is requesting ***original*** charts to expand the library. Please email the original tank calibration charts for upload to the email address below. In providing

this information, Unidocs is not endorsing the use of any particular manufacturer's equipment. The tank calibration charts can be found at the Unidocs web page. (http://www.unidocs.org/hazmat/ust/installation/tankcharts.html)

For all things Unidocs and tank calibration charts, please contact Mr. Greg Breshears, County of Santa Clara Department of Environmental Health, at (408) 918-1978 or Greg.Breshears@cep.sccgov.org.

## Cal FIRE OSFM

### CAL FIRE Website

In July 2019, CAL FIRE launched its new website to comply with state accessibility requirements per Assembly Bill (AB) 434. Previous Office of the State Fire Marshal (OSFM) website links, including the Aboveground Petroleum Storage Act (APSA) and fire code Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statements (HMIS), were removed. OSFM is working diligently to meet the requirements of AB 434. The new website for the OSFM 'CUPA' program is now available, including links to information on the APSA and HMMP-HMIS programs. (http://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/)

Contact OSFM staff at cupa@fire.ca.gov if you want a document previously posted on the CAL FIRE-OSFM websites, such as those listed below. OSFM will make every effort to provide documents in a timely manner once requested.

- The Tier II Qualified Facility Spill Prevention, Control, and Countermeasure Plan template,
- APSA tank facility statement,
- APSA farm fact sheet,
- Guide on tanks in underground areas (TIUGA), or
- The monthly inspection checklist for APSA tank facilities with less than 1,320 gallons of petroleum and has one or more TIUGAs.

***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**

# Agenda Item IX

# ARTICLES OF INTEREST

# California Bioresources Alliance Symposium

14th Annual • **November 14-15, 2019** • Ziggurat Bldg (707 3rd St, West Sacramento)

Cost: **Free** · Space: **Limited** · **RSVP here**

## Join Us for Two Conferences in One!

### Presentations and Insights on Leading Bioresource Topics

- Industry Forecasts
- Lessons Learned
- Project Financing
- Venture Strategies
- Market Logic
- Facility Rightsizing
- Advanced Tech
- Bioproduct Opportunities

### Interactive Permit Streamlining Workshop

- Pinpointing Permitting Drags on Development
- Strategizing Ways to Reduce Permit Time + Cost
- Advancing Progress on Permitting via Collaboration
- Improving System Efficacy and Co-learning

Questions or Media: **Contact Lauren Fondahl, EPA Region 9**

✉ Fondahl.Lauren@epa.gov | ☎ 415.972.3514

The California Bioresources Alliance Symposium is a premier opportunity for regulators and planners from all levels of government to gather for discussion about bioresource development and recovery with industry representatives, researchers, environmental groups, consultants, and financers. The conference creates a space for exploration about a range of bioresource materials, including (but not limited to) woody byproducts, agricultural residues, food scraps, green materials, biosolids, and manures.

New in CBA 2019 is our **permit streamlining workshop**. Its four interactive parts have been woven across the two-day conference. The objective of the workshop is to advance pragmatic solutions to unintended consequences in statewide permitting. The workshop begins with a set of short, enlightening primers designed to create a shared understanding of air, water, and solids permitting. In the second session all attendees work together to identify and acknowledge core hang-ups and overlooked inefficiencies in the permitting process. Then, drawing on our experiences across media and sectors, we roll up our sleeves and collaboratively devise proposals for improving the efficiency of permitting without compromising its efficacy. The goal of this co-learning platform is to compile and advance the clearest set of proposals for speeding up development of organics recovery projects in California.

As usual, the symposium hosts **expert panel sessions** that explore current issues in the bioresource economy – from financial onramps for organics projects, incentives for certain bioresources technologies and products, distributed bioresources projects and community composting, and use of bioresources for energy and GHG reduction. Posters will offer windows into new research, and flash presentations will showcase new bioresources projects and technologies.

This conference welcomes both novices and experts. Please join us for an engaging and fun two days of meaningful exploration of the bioresource economy.

Cost: **free**

RSVP: **here**

**more detailed program here**

Progress Through Collaboration

## Day 1 (Thursday, November 14)

| | | |
|---|---|---|
| 9:00-9:10 | Conference Opening and Welcome (Lauren Fondahl) | |
| 9:10-9:30 | **Intro to Interactive Workshop** | **Chad White** (BAAQMD) and **Dan Noble** (Noble Bioresources) describe the objective and structure of the four-part interactive workshop and call for collaboration to reduce GHGs by streamlining permitting experience. |
| 9:30-9:50 | • Stakeholder Perspectives | **Clark Ajwani** (LA County), **Tim Goncharoff** (Santa Cruz County), **Joe Maceda** (ZNC Farms), and **Eric Potashner** (Recology Inc) narrate experiences as stakeholders working to grow infrastructure to meet SB 1383 objectives. |
| 9:50-10:20 | • Primer on Air Permitting | **Errol Villegas** (San Joaquin Valley APCD) with **Alan Abbs** (BAAQMD) summarize the premises, data, steps, and timeline to permit a facility. |
| 10:20-10:30 | *break* | |
| 10:30-11:00 | • Primer on Water Permitting | **Rob Busby** (Central Valley RWQCB) with **Brianna St. Pierre** (SWRCB) summarize the premises, data, steps, and timeline to permit a facility. |
| 11:00-11:30 | • Primer on Solids Permitting | **Greg Reyes** (Riverside County/LEA) with **Bill Prinz** (City of San Diego LEA), Paulina Lawrence (CalRecycle) and Brian Stalker (CalRecycle) summarize the premises, data, steps, and timeline to permit a facility. |
| 11:30-12:45 | *lunch and networking* | |
| 12:45-1:00 | *Flash Presentations* | Companies provide snapshots of technologies and service offerings |
| 1:00-2:15 | **Advanced Tech and Bioproducts** (Panel Session 1) | This panel explores technologies that do and do not qualify as conversion pathways for recycling organic materials. The goal of this session is to advocate for a broad set of recovery opportunities in State policy. Moderator: Chuck White (Manatt, Phelps, and Phillips) |
| 2:15-2:30 | *break* | |
| 2:30-3:30 | **Pinpointing Permitting Hang-ups** (Workshop Part 2) | All conference participants are engaged in an interactive conversation and encouraged to share observed hang-ups and inefficiencies in the permitting process. In doing so, this session serves to acknowledge frustrations and unintended consequences of fragmented permitting system that slow development of organics recovery infrastructure. It also lays the groundwork for subsequent sessions of the workshop. |
| 3:30-4:45 | **Market Logic + Facility Rightsizing** (Panel Session 2) | This panel analyzes the scope, scale, and distribution of organics facilities needed to support the goals of SB 1383. The objective of this panel is to explore a diverse set of opportunities and to maximize the market potential and community benefit of organics recovery. Moderator: Kourtnii Brown (Common Compost) |
| 5:00-7:00 | *Happy Hour* | |

| Day 2 (Friday, November 15) | | |
|---|---|---|
| 9:00-10:15 | **Strategizing Ways to Reduce Permit Time and Cost** (Workshop Part 3) | All conference participants are engaged in a discussion about ways that permitting processes could be modified to achieve their public health missions while also overcoming the hang-ups or unintended efficiencies. Workshop leaders guide the exploration and collection of ideas. |
| 10:15-10:25 | *break* | |
| 10:25-11:45 | Accelerating Deployment of Recovery Infrastructure (Panel Session 3) | This session will present key findings about barriers to dry anaerobic digestion deployment based on recent research. It also offers insights and policy recommendations. Moderator: Andy Satchwell (Lawrence Berkeley Lab) |
| 11:45-1:00 | *lunch and networking* | |
| 1:00-1:15 | *Flash Presentations* | Companies offer snapshots of technologies and service offerings |
| 1:15-2:15 | **Refining Ideas and Making Progress thru Collaboration** (Workshop Part 4) | All conference participants are engaged in a process of further developing ideas from Part 3 of the workshop. The goal is to turn raw ideas into more specific proposals targeted at the right level of government. Workshop leaders guide the refinement and compilation of evolving ideas. |
| 2:15-2:30 | *break* | |
| 2:30-4:00 | Project Finance + Venture Strategies (Panel Session 4) | This panel explores pathways for bioresource infrastructure projects to access funding, particularly in light of the challenges of obtaining "early money" for project development. Moderator: Michael Theroux (IDMT) |
| 4:00-4:30 | **Improving Systems thru Co-learning** (Conference Wrap-up) | As a wrap-up to the overall symposium, workshop leaders share observations from the workshop and explain how the work accomplished here is being imagined as part of a continuing, progressive effort to accelerate development of bioresource and bioenergy infrastructure in California. |
| 4:30-4:45 | Conference Evaluations and Adjournment | |

POLITICS

# California's plastic pollution fight may be headed to voters

**Dustin Gardiner**

Nov. 4, 2019 | Updated: Nov. 4, 2019 8:09 p.m.

Plastics are separated from other recyclables on a conveyor belt in this 2007 file photo. An initiative proposed for California's November 2020 ballot would dramatically reduce the amount of disposable plastic that could be used in the state.

SACRAMENTO — California environmentalists battling to stop plastic from polluting the ocean and piling up in landfills say they can't wait for state lawmakers to act — they're hoping to take the fight to the ballot box.

Recology, the Bay Area waste hauler, and environmental groups filed a proposed initiative Monday that would require plastic manufacturers to dramatically reduce the amount of products that people use once and toss in the trash.

The initiative, aimed at the November 2020 ballot, is a more far-reaching version of two waste-reduction bills that died at the state Capitol this year, both were opposed by the plastics and petroleum industries.

Eric Potashner, vice president of Recology, said the consequences of inaction are mounting as plastic strangles marine habitats and overwhelms recycling facilities. He also signaled that qualifying the initiative for the ballot is intended in part to get state lawmakers to do something in 2020 that they could not this year — pass a major bill designed to cut plastic pollution.

"We're running out of time," Potashner said. "We need a backup plan if the Legislature is not able to do something significant on plastic-packaging pollution."

**Related Stories**

BY DUSTIN GARDINER

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BY ELENA SHAO

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Supporters must collect 623,212 signatures of registered California voters by the end of April to qualify the proposed initiative for the November ballot.

Tim Shestek, a lobbyist for the American Chemistry Council, which represents the plastics industry, said the "timing of this new proposal strikes us as odd," given that lawmakers are working on a major packaging recycling bill that could pass in January.

"This new initiative proposal will only serve as a distraction, and resources that could be going toward recycling could now be unnecessarily wasted," Shestek said in an email.

The measure would require manufacturers to make all plastic packaging and single-use foodware items, including cups, straws and utensils, recyclable or compostable by 2030. It would also:

• Create a fee of up to 1 cent for manufacturers on every plastic item or product with plastic packaging. The money would be used to build recycling and composting facilities, and to pay for restoration projects such as beach cleanups.

• Prohibit food vendors, including restaurants and grocery stores, from using Styrofoam and other plastic-foam takeout containers.

• Require manufacturers to reduce to the "maximum extent possible" the plastic packaging and single-use products they create. That could require them to offer more reusable containers.

Caryl Hart, a member of the California Coastal Commission who lives in Sebastopol, co-authored the initiative. She said the popularity of plastic, made from fossil fuels, has exacerbated climate change.

"We're seeing activity in the Legislature, but there's not success," Hart said. "If California is not going to lead, who is going to?"

Potashner said the penny-or-less fee would build infrastructure like recycling plants and composting facilities so more California communities can dispose of waste locally instead of shipping it overseas.

"This initiative aims to hold the plastics industry accountable for the products they create," Recology CEO Mike Sangiacomo said in a statement.

Recology, like many waste haulers, sends thousands of tons of plastic waste to landfills every year. The recycling industry has been upended recently, as overseas markets, including China and the Philippines, have begun rejecting U.S. plastics.

Recology has pledged to spend $1 million to qualify the initiative for the ballot, but the effort could cost at least several million dollars more. Potashner said other groups plan to contribute to the fight, but none has made a public commitment.

Environmentalists anticipate opposition from the deep-pocketed plastics industry, which spent heavily to defeat bills in the Legislature this year. One company, Novolex, spent more than $959,000.

*Dustin Gardiner is a San Francisco Chronicle staff writer. Email: dustin.gardiner@sfchronicle.com Twitter: @dustingardiner*

WASTEDIVE

BRIEF

# EPA sued by hazardous waste group over e-Manifest fee increases

By Cole Rosengren

Published Oct. 18, 2019

## Dive Brief:

- The Environmental Technology Council (ETC), a trade association for hazardous waste service providers, has filed a petition in the U.S. Court of Appeals for the D.C. Circuit challenging new FY20-21 fee increases for the federal e-Manifest program.
- The ETC alleges the Environmental Protection Agency (EPA) did not follow requirements, as set forth under the Resource Conservation and Recovery Act, to consult with the Hazardous Waste e-Manifest Advisory Board on biennial fee increases.
- Since the increases already took effect Oct. 1, ETC is calling for that fee schedule to be "set aside" and for refunds to be issued based on FY19 fee levels. "EPA does not comment on pending litigation," an agency spokesperson told Waste Dive.

## Dive Insight:

The e-Manifest program launched in June 2018 with the goal of digitizing the process required to track hazardous waste shipments throughout the United States. While EPA initially estimated it would see nearly 3 million manifests submitted during FY19, recent reports indicate the agency will likely only receive 2.12

million. Out of that 2.12 million, EPA projects only 10,000 will be fully electronic.

This shortfall has complex implications for processing costs and logistics, and led the agency to announce a higher than anticipated fee schedule in July. New costs range from $8 per electronic manifest (previously $5) to $25 per mailed-in paper copy (previously $15). The cost for "image + data" entries, which currently represent 75% of all submissions, have risen from $6.50 to $14.

As this was the new program's first round of regularly scheduled fee changes, the advisory council anticipated having an opportunity for input. Instead, service providers reportedly learned about the news via an overdue memo. Hazardous waste companies say this gave them limited time to tell customers, or renegotiate pricing to reflect the change. For some, especially those with long-term contracts, this has meant bearing the new costs themselves.

"EPA indicated that this fee would be somewhat higher, but they never told us they were going to more than double the fee and that just was a shock. The fact that they didn't consult with us, didn't ask for stakeholder input, didn't give us any advance notice, just typifies how the agency has been ignoring our concerns." ETC Executive Director David Case told Waste Dive. "We have to pay the fee therefore we should have some input into how it's calculated."

The situation has seemingly been exacerbated by industry complaints that the EPA-designed system isn't workable, in part because of integration issues with corporate platforms for billing and tracking. Last month, the agency told Waste Dive it "acknowledges that electronic manifests represent a small subset

of the manifest universe and thus is seeking ways to assist industry with faster adoption of electronic manifests."

According to the EPA's July memo, initial calculations actually could have led to higher fees. Instead, the agency chose to lower certain rates to incentivize the move toward fully electronic submissions by June 30, 2021.

## Recommended Reading:

WASTE DIVE

EPA set to hike e-Manifest fees as industry slow to adopt system

Waste 360

Los Angeles County Department of Regional Planning Twitter

# Ruling Allows Chiquita Landfill to Pursue Lawsuit Against County

*A trial court ruled that Chiquita could challenge operational conditions, including waste capacity limits and requirements supporting the county's legislative agenda.*

Waste360 Staff | Nov 19, 2019

A California trial court has found equitable estoppel against Los Angeles County in Waste Connections' Chiquita Canyon Landfill

permit challenge. Equitable estoppel is a legal principle that stops one party from taking a legal position that conflicts with previous statement and actions.

Los Angeles County Superior Court Judge Daniel Murphy on November 13 issued a 15-page ruling finding the county was equitably estopped from contesting Chiquita Canyon Landfill's ability to sue the county over operational conditions in the landfill's conditional use permit (CUP).

The court found the county's planning department had instructed Chiquita that it could reserve its rights to challenge in court all provisions of the landfill's CUP. Chiquita relied on this reservation, and therefore the county was barred from invoking California law that limits permit challenges to fees. The court ruled that Chiquita could challenge operational conditions in the CUP governing the landfill, including daily and annual waste capacity limits and requirements that support the county's legislative agenda.

"Chiquita Canyon is pleased with the ruling and appreciates the court's close attention to the evidence," said John Musella, a landfill spokesman, in a statement. "This ruling will allow Chiquita Canyon to proceed with its full lawsuit seeking reasonable permit governance that allows the landfill to operate safely, generate fair fees for the county and continue to provide affordable waste disposal services to a growing local economy, as Chiquita has for nearly 50 years."

Chiquita Canyon Landfill , owned by Waste Connections, is one of the largest landfills in California and provides almost 25 percent of the solid waste disposal needs of Los Angeles County. The 639-acre landfill has been in operation for almost 50 years. L.A. County issued a new CUP for the landfill in July 2017, containing more than 130 conditions

governing the landfill and imposing fees. Chiquita filed a lawsuit in October 2017 challenging 29 of the CUP conditions, including 13 operational conditions, such as limits on the amounts and types of solids waste the landfill can receive and requirements for the landfill to support the county's legislative agenda on solid waste.

In 2018, the trial court granted the county's objection to and motion to strike Chiquita's challenges to the operational conditions, ruling that California law only allowed challenges to fee provisions in the permit. The trial court further ruled that challenges to the operational conditions of the permit were forfeited because Chiquita had accepted the permit, continued operations and therefore had lost the right to challenge in court any conditions of the permit, except for the fee provisions reserved by statute by the state's Mitigation Fee Act.

Chiquita's petition for an interlocutory appeal of the trial court ruling decision was granted. The California Court of Appeal reversed the trial court in February 2019, ruling that Chiquita was entitled to prove facts showing that equitable estoppel barred the county from arguing a forfeiture of Chiquita's right to sue over the operational conditions.

Back in February, Waste Connections defeated a $5.1 million L.A. County Department of Public Works (DPW) enforcement order against the Chiquita Canyon Landfill that alleged the landfill failed to pay the county millions of dollars in solid waste management fees in the 2011-14 period. DPW argued that Chiquita should have paid disposal fees on materials classified as beneficial reuse and used for beneficial use purposes at the landfill, including daily cover and other maintenance purposes, because DPW believed that Chiquita's use of soil and beneficial reuse materials was excessive.

DPW argued that Chiquita should have maintained a 4:1 ratio of

disposed waste to beneficial reuse materials (for instance, no more than 20 percent beneficial reuse materials) and that Chiquita's use of soil and beneficial reuse materials was far greater than 20 percent. According to documents, DPW then "reclassified" 75 percent of Chiquita's use of beneficial reuse materials as "disposal" and sought disposal fees and administrative penalties totaling more than $5.1 million dollars.

Last week, on November 13, the trial court ruled that Chiquita had proved the Los Angeles County Regional Planning Department directed it to reserve its rights to challenge operational conditions in a document separate from Chiquita's affidavit of acceptance of the permit and that Chiquita "was unaware, and reasonably so, that the County would deem [Chiquita's] reservation of rights ineffective."

"The landfill has operated for many years as a valid, permitted use, and it processes approximately a quarter of all waste in the county," stated Judge Murphy in his summary. "The July 2017 CUP contains numerous operating or use-related conditions that the petitioner challenges. Halting landfill operations to challenge those conditions would have been detrimental both to the petitioner's business and to county's waste management needs. As discussed above, there is strong evidence that the county, through statements and conduct of its planning department, reasonably caused the petitioner to believe that it could continue its ongoing operations while challenging permit conditions if it placed its reservation of rights in a separate document. The county did not object to the reservation of rights prior to its demurrer. In these circumstances, substantial injustice would result from a failure to uphold an estoppel against county."

Trial on Chiquita's full claims is set for April 23, 2020.

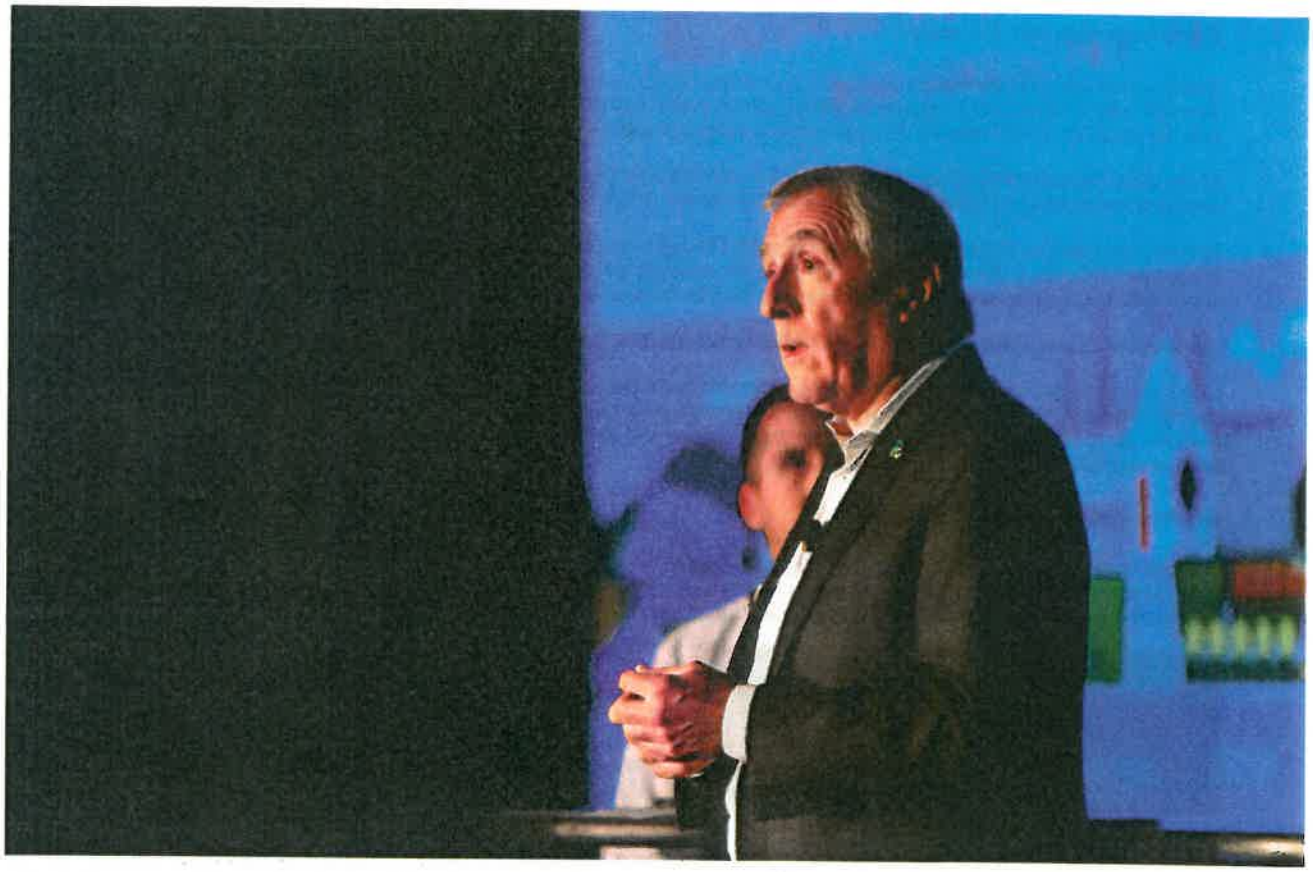
**Source URL:** https://www.waste360.com/legal/ruling-allows-chiquita-landfill-pursue-lawsuit-against-county

# Sweeping plastics ballot initiative submitted in California - Resource Recycling News

*Jared Paben*

Posted on November 12, 2019

by



*Recology CEO Michael Sangiacomo told an audience at the 2019 Resource Recycling Conference and Trade Show his company would help bankroll a California initiative taking aim at plastic waste. | Brian Adams Photography*

The CEO of West Coast hauler Recology recently teamed up with environmentalists to submit an initiative that would put single-use plastics management in front of voters in the state.

The proposed statewide ballot initiative gives California officials broad new powers. Recology, an employee-owned company that provides recyclables sorting and marketing services for San Francisco and many other West Coast cities, pledged $1 million to qualify it for the ballot. Backers are targeting the November 2020 statewide ballot.

The initiative, called the California Recycling and Plastic Pollution Reduction Act of 2020, gives regulators the power to charge producers fees for selling single-use plastic packaging. The fee could be as high as 1 cent per package sold in the state.

The act also lets regulators require packaging be reusable, recyclable or compostable; ban certain "unnecessary" packaging and prohibit the use of virgin plastic; mandate recycled content; impose deposit systems and retailer take-back requirements; pass labeling and marketing requirements; and more.

The California Department of Resources Recycling and Recovery (CalRecycle) could use the money from the fee system to support local recycling programs, subsidize the recycling industry, fund waterway cleanups, and other purposes.

Recology CEO Michael Sangiacomo submitted the proposed initiative alongside Caryl Hart and Linda Escalante, both members of the California Coastal Commission. Hart, former director of Sonoma County's regional park system, was appointed to the commission in July. Escalanate, the Natural Resources Defense Council's (NRDC) Southern California legislative director, was appointed to the commission in May.

On Nov. 4, the California Attorney General's Office received the proposed initiative for review. The proponents will need to gather signatures from 623,212 registered voters. The California Secretary of State's Office recommends they submit the

signatures to county elections officials by April 21, 2020 to allow time for the initiative to be qualified for the November 2020 ballot.

In a statement, Sangiacomo said it should come as no surprise that Californians "are ready and willing to take the lead on the issue of plastic pollution."

"This initiative aims to hold the plastics industry accountable for the products they create, and support projects that create jobs and increase the use of recycled materials," he stated. "We must support investments in environmental restoration and domestic recycling infrastructure needed to close the loop on the materials entering our marketplace."

Recology issued a press release noting the results of a survey conducted by Fairbank, Maslin, Maullin, Metz & Associates (FM3) Research. The survey found about 70% of California voters support a 1-cent fee to reduce the use of non-recyclable packaging and raise money for recycling, composting and litter removal.

## Recology signals its move

Nearly a year ago, Sangiacomo penned an op-ed in the San Francisco Chronicle saying that if the plastics industry doesn't "step forward" with policies and programs to reduce plastic waste and pollution, Recology would support a statewide initiative. He said his company would commit $1 million to the signature-gathering effort.

At the 2019 Resource Recycling Conference and Trade Show in New Orleans, Sangiacomo took the stage to declare his company was putting $1 million behind an effort to restrict single-use plastics.

Recology was also involved in supporting Assembly Bill 1080 and its companion bill, Senate Bill 54, which gave the state broad regulatory authority to force reductions in single-use packaging waste. The legislature failed to approve the bills before it adjourned, but supporters said they expected the legislation would land on the agenda when lawmakers reconvene in January.

In a number of areas, language in the new initiative mirrors text from those bills.

The San Francisco Chronicle wrote about the proposed initiative. In the article, the American Chemistry Council (ACC) said the timing of the initiative is odd, given legislators are working on a packaging recycling bill that could pass in January. Tim Shestek, an ACC lobbyist, told the newspaper the initiative will serve as a distraction and a waste of resources that could go toward recycling.

### *More stories about California*

- Here's what is (and isn't) becoming law in California
- Single-use packaging proposal on pause in California
- Two recycled-content bills gain approval in California

# Thermoform recycling operation coming to California - Plastics Recycling Update

*Dan Leif*

*Green Impact Plastics will build a PET thermoform processing facility in California after reclaimer rPlanet Earth agreed to buy its output. | Courtesy of Green Impact Plastics*

A Mexican company that developed a system to process post-consumer PET thermoforms will open a $7 million plant in the Los Angeles area. It's now on the hunt for thermoform bales.

Green Impact Plastics is currently handling recovered PET thermoforms at a site in Ciudad Juarez, Mexico, said company owner Octavio Victal. He noted that since March, the operation has been dialing in its processing system in a partnership with California reclaimer rPlanet Earth.

The two companies recently ran a trial in which 1 million pounds of thermoforms, purchased from California materials recovery facilities (MRFs), were transported to the Juarez facility. Green Impact processed the plastic and then shipped clean flake to rPlanet Earth's Vernon, Calif. site, where it was fed into rPlanet's thermoform sheet production line.

Representatives from both companies told Plastics Recycling Update they deemed the trial a success, and rPlanet Earth signed an offtake agreement with Green Impact. That has opened the door to higher output volumes in Juarez and a new facility in California, which is slated to open in the second quarter of 2020, according to Victal.

The $7 million California plant will be located in Vernon, approximately two miles from rPlanet's facility. The site's capacity will be 4 million pounds a month, and the existing Mexico plant is scaling up to a capacity of 2 million pounds a month.

"That will give us a nice 6 million pounds of capacity of thermoforms, which will all come back to rPlanet Earth to be turned into a food packaging product," Victal said. "We are definitely thinking thermoform recycling is going to be the next big thing."

## Strategy for 'a unique resin'

Though PET recycling is well-developed in North America, the existing infrastructure is focused primarily on bottles. As PET thermoform packaging – often in a "clamshell" format – has grown in use in the U.S., recycling companies have found the material to sometimes be difficult to integrate into the system.

Labels on thermoform containers are often paper-based and affixed with adhesives that make them difficult to separate from

the plastic. The characteristics of the PET in thermoforms also differ from that used in bottles. That can cause problems if thermoform resin is mixed with bottle resin at too high of a percentage.

"You've got to look at thermoforms almost as a unique resin," said Joe Ross, co-CEO of rPlanet Earth. "You can't just lump PET all into the same pot because the sheet to make thermoforms typically starts out with a much lower [intrinsic viscosity] compared with bottles. And because they're in almost two different stratospheres, to blend them together and homogenize the IVs is almost impossible."

Such recycling barriers have kept thermoform materials out of many local recycling collection programs. According to Bob Daviduk, rPlanet's other co-CEO, the state of California has estimated that around 250 million pounds of thermoforms are sent to disposal in the state annually.

*Leaders from rPlanet Earth and Green Impact Plastics celebrate the opening of Green Impact's Juarez, Mexico facility this spring. From left: Bob Daviduk, Joe Ross, Octavio Victal and Juan Pablo Victal. | Courtesy of Green Impact Plastics*

For stakeholders that make and use thermoform packaging, the lack of recycling has taken on added urgency, with lawmakers in California threatening to bring on policy that would outlaw packaging types that cannot reach certain materials recovery thresholds.

"In California in particular, the produce growers all have become very concerned," Daviduk said.

## Figuring out a process

In Mexico, Victal and his brother, Juan Pablo Victal, have spent a number of years working through the intricacies of thermoform processing. (Octavio Victal was also co-founder of a bottle recycling operation called Tecnopenales that closed in 2014.)

According to rPlanet's Ross, Victal has developed a particular expertise on the thermoform front. It made more sense for rPlanet to partner with him than to try to figure out how to best handle the stream on its own.

"There's all these trade secrets that Octavio's learned with regard to the size of the flake, how to convey the flake, the wash line chemistry," Ross noted. "We would have been literally spending five years trying to crack the code on what he's already learned in his time doing it."

Victal said his plant in Juarez is 32,000 square feet and uses machinery from Chinese manufacturers. He describes the setup as "a modified bottle wash line." He noted it relies on an intensive filtration system to handle the pulp from labels and modified spin dryers to help reduce "fines," the smaller pieces of material that can be problematic in processing.

The facility in Vernon, an industrial-focused city just southeast of downtown Los Angeles, will be 54,000 square feet and will be housed in an existing building. Green Impact is currently finalizing permitting details with the city and is working with an engineering group to get the space ready for equipment installation.

Victal said the company is leasing the building with an option to buy. And he noted the $7 million that will be needed for equipment purchasing is being provided by private equity. He said he also has approached industry group Closed Loop Partners for financial support.

Victal said rPlanet Earth is involved only through the offtake agreement for material – it is not providing funding for the new facility.

"We are using the offtake agreement to leverage our investors," Victal said. "One-hundred percent of the material is already sold."

## Looking for thermoform bales

Victal said that with rPlanet in place as a buyer and processing plans set, the key now is securing supplies of material from MRFs.

He said he has been working with Plastic Recycling Corporation of California (PRCC) to connect with MRFs and help them see the value of investing in equipment and taking other steps to make thermoform-only bales.

"We're making sure they understand there's a market for it," he said. "We want to flush out as much volume as possible."

He noted that when the California operation comes on-line, the Mexico site might be able to start accepting bales from other regions of the U.S.

Daviduk of rPlanet said the the partners expect economics to drive the thinking of MRFs. Currently, MRF operators are often paying to send thermoform material to disposal, or they are lowering the quality of PET bales when they mix thermoforms with bottles.

Having a clear market "for those bales creates not a large revenue stream but at least a revenue stream that presumably will entice them to invest in more automated sortation," Daviduk said. "It's a good story – the fact that MRFs can say, 'Instead of sending this material to landfill, it's now getting recycled.' That's good for everyone involved.'"

### *More stories about PET*

- Recycled plastic end markets expand
- Circular Polymers to supply PET carpet fiber to Eastman
- Exports tumble and 'ungodly demand' boosts HDPE prices

Waste 360

# What Emerging Contaminants are on Whose Radar?

*The term "emerging contaminants" is somewhat of a misnomer in that some of these constituents have been well recognized for decades.*

Arlene Karidis | Nov 05, 2019

"Emerging contaminants of concern" is now a buzz term in the solid waste management arena. Generally, the term refers to chemicals that

can be found in leachate that are on some researchers' and regulators' radar due to possible health and environmental risks. The leachate typically moves on to wastewater treatment plants, and these contaminants end up in surface water.

The term "emerging contaminants" is somewhat of a misnomer in that some of these constituents have been well recognized for decades, though are lately seen in increasing concentrations in water, whether because of better detection methods or other reasons. But a few have been only recently identified.

"Among [emerging contaminants] we think will become major issues over the next five years or sooner is 1,4-dioxane [in paint strippers, dyes, antifreeze and other industrial products]. Others coming up are compounds in pharmaceuticals, personal care products and microplastics," says Patrick Stanford, general manager for Rochem Americas, a water treatment equipment manufacturer based in Hermosa Beach, Calif.

Meanwhile, there are few regulations to address most of the contaminants that have come into question. However, the U.S. Environmental Protection Agency (EPA) and some states are starting to look closely at some of them, with Michigan in the forefront . Manufacturers are on the wing with their broad-application leachate treatment systems that they expect may play a growing role in addressing emerging contaminants.

Per- and polyfluoroalkyl substances (PFAS), especially, are on the edge now. Thousands of chemicals fall under this category and are used in products from nonstick cookware to waterproof fabrics. Research links some PFAS to cancer, kidney problems and other health issues. EPA just awarded $6M to research impacts of PFAS in waste streams and

released its PFAS Action Plan.

These PFAS, as well as materials that interfere with ultraviolet light (UV) transmittance, appear to be closest to regulatory implementation, observes Ryan Schipper, senior project engineer at Golder Associates.

Materials in leachate , disruptive to UV transmittance, are driving wastewater treatment plants to action. They are mainly organics and organic acids like humic acids and fulvic acids that degrade in landfill.

The issue is that they interfere with a process that many wastewater treatment plants are adopting called UV disinfection, which uses light to kill pathogens.

"Changing to UV disinfection helps to minimize carcinogenic byproducts generated from the disinfection process. But materials in leachate that interfere with UV transmittance compromise the UV systems' capabilities," says Schipper.

Consequently, wastewater treatment plants may not meet requirements for disinfection. If operators identify landfill leachate as the issue, leachate will likely have to be pretreated, or be rejected.

Many constituents in personal care products and in pharmaceuticals are issues, too.

"Some of them may be in leachate and, when discharged to wastewater treatment plants, not all are degraded. Ultimately, they are discharged with the wastewater effluent into water bodies," says Ivan Cooper, Civil & Environmental Consultants (CEC) principal and national water/wastewater practice leader.

Microplastics (particles under 15 microns) are garnering scrutiny.

"Microplastics can form a media that other bacteria can grow on, and we haven't confirmed their health effects, nor are there standard methods for testing for the presence of microplastics," says Cooper.

Three main leachate treatment technologies address the problems around emerging contaminants to a degree: reverse osmosis, activated carbon and ion exchange.

Reverse osmosis is generally considered the most effective broad-spectrum treatment system. Through this process, most material passes through a membrane as treated water and the remaining contaminants are retained by the membranes.

Stanford says Rochem's reverse osmosis technology can normally reduce the volume of contaminated water to 5 to 10 percent of the original leachate volume.

Cooper says while firms like CEC look at reverse osmosis, the technology is limited, as residuals left after separation contain high concentrations of contaminants that have to be managed.

But another technology, phytoremediation, addresses the residue issue and has other benefits. Phytoremediation involves installing a drip irrigation system down rows of trees, which distributes leachate. The trees take up the constituents.

If well designed and maintained, phytoremediation can be inexpensive and effective, says Cooper.

Meanwhile, relatively few landfill operators are gearing up to address contaminants that are so far unregulated.

Stanford says Rochem's customers invest in its equipment primarily to cost effectively manage leachate in general as required, or for disposal options.

But Cooper says, "While we are focused around what is currently regulated, we are also starting to be aware of what might bite us later."

Even as research discloses more, the need for more studies will be ongoing, as chemicals are manufactured faster than they are tested, says Mort Barlaz, head of the department of Civil, Construction, & Environmental Engineering at North Carolina State University, Raleigh.

"We need to adapt management strategies which recognize that there will always be unknowns," he says. "It means we will need to take steps to remove contaminants before they release to the environment ... And I think landfill owners need to look at whether leachate is a significant

contributor to emerging contaminants entering wastewater treatment plants. If it is, industry needs to work with those treatment plants on strategies to manage the contaminants."

**Source URL:** https://www.waste360.com/special-waste/what-emerging-contaminants-are-whose-radar

# VIDEO: Robotic Sorting Systems from BHS Boosting Quality at Recology's Pier 96 Recycling Facility



MAX-AI and VIS Helping San Francisco Recycler Produce Better Bales
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San Francisco-based waste management and resource recovery firm, Recology, has added a number of robotic sorting systems from by Eugene, Oregon-based Bulk Handling Systems to its Pier 96 MRF.

San Francisco-based waste management and resource recovery firm, Recology, has added a number of robotic sorting systems from by Eugene, Oregon-based Bulk Handling Systems (BHS) to its Pier 96 Material Recycling Facility (MRF).

The 200,000-square-foot materials recovery facility has been upgraded with the addition of four Max-AI® AQC (for Autonomous Quality Control) units and one VIS (for Visual Identification System) to the Recycle Central.

BHS explained that Max-AI technology is supplied by Eugene, Oregon-based Bulk Handling Systems (BHS). The AQC units employ a camera-based vision system and Artificial Intelligence (AI) to identify recyclables and a robot to sort them. The investment in the highly advanced technology aligns with the company's mission to produce even cleaner bales – and sustain San Francisco's recycling program.

One Max-AI AQC unit is in a PET quality control (QC) role to remove contamination and capture non-CRV PET. The other three monitor the plant's container line to boost recovery, capturing any remaining PET, HDPE and mixed plastics. VIS monitors the outbound residue, providing MRF operators with real-time and trending material composition of outbound material, allowing them to gage performance and adjust the system to optimize recovery.

Four robotic sorting machines are learning to identify different types of plastics, remove them from conveyor belts of mixed materials at rapid speed, and deposit

them into appropriate categories for further sorting. "Automation is the next step toward technological advancement in recycling," said Maurice Quillen, General Manager of Recology San Francisco, the operating company that runs Recycle Central.

"The magic of Recycle Central continues to be people utilizing the latest technology to recycle more materials while producing high-quality bales of sorted recyclables. The robotic sorting machines at Recycle Central will be used to perform some of the dirtier jobs, and employee-owners will be assigned more technical positions, developing new skills needed to manage and maintain high-tech equipment," Quillen said.

"BHS has a longstanding relationship with Recology as a supplier of MRF systems and equipment," added BHS Sales Manager Richard Sweet. "We're thankful that they chose BHS and Max for this important technology upgrade, which is one that the company's employees and community stakeholders can be proud of. Max is a new technology that allows for new sorting achievements; by adding four Max units to the Recycle Central MRF, Recology continues to show that it's a company that truly cares about maximizing quality and recovery."

Designed and constructed by Recology in partnership with The City of San Francisco, Recycle Central opened in 2002 and serves as key infrastructure in San Francisco's recycling program, widely recognized as a top program in North America.

Recycle Central sorts approximately 750 tons of material every day over two shifts. It is the largest shipper of recycled paper on the West Coast and sends more than 30 shipping containers of recycled commodities six days a week to paper mills, glass plants and other manufacturers that purchase recycled materials to create new products.

## A Culture of Innovation

BHS noted that Recology is no stranger to innovation. Getting to zero waste necessitates creative solutions for resource recovery.

The ever-changing plastic packaging industry has created new and evolving obstacles for recovering valuable commodities like paper and cardboard while low-grade plastics, like candy wrappers and chip bags, still make their way to landfill. Recology investments in robotic sorting, machine learning, and other innovative technologies provide critical opportunities for development of domestic recycling infrastructure.

Other strategies for achieving zero waste will include policies like single-use plastic bans and recycled content mandates. It will take the collective efforts of recyclers, policymakers, and manufacturers alike to achieve a world without waste.

A video featuring the technology in operation at Recology's facility can be viewed below.

## Read More

CarbonLITE to Recycle 2bn PET Bottles in New Facility Following Nestlé Waters

Deal
Nestlé Waters North America has signed a significant agreement with recycled PET plastic (rPET) supplier CarbonLITE, which will expand its US operations by building a third facility in the Lehigh Valley area of Pennsylvania.

Five BHS Max-AI Robotic Sorting Systems Part of Major Upgrade at San Jose Recycling Plant
GreenWaste Recovery Is to upgrade its Material Recycling Facility in San Jose with the installation of the latest sorting technologies from Bulk Handling Systems, including five Max-AI™ Autonomous Quality Control units.

MAX-AI from BHS Brings Next Generation Robotic Sorting to the Recycling Industry
Nashville, Tennessee based optical sorting equipment manufacturer, National Recycling Technologies, a part of BHS, has introduced its Max-AI technology - an artificial intelligence that identifies recyclables and other items for recovery.

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# Report: Coca-Cola's global PCR number is 9%, PepsiCo is at 3% - Plastics Recycling Update

*Jared Paben*

Posted on October 30, 2019

by

*The Ellen MacArthur Foundation released an update on organizations' progress toward their global plastic packaging commitments. | Aykut Erdogdu/Shutterstock*

The Coca-Cola Co. uses considerably more recycled plastic than many of its global packaging peers. But, like others, it still has a long way to go to hit its ambitious goals for post-consumer resin.

The Ellen MacArthur Foundation released the first progress report for the New Plastics Economy Global Commitment. The 433-page document, which will be updated annually, reports on participating companies' progress toward meeting their plastic packaging sustainability commitments.

The following is selected 2018 data from some of the largest brand owners (in terms of revenue) that have signed the commitments. The numbers describe the companies' global portfolio across all product types. The companies below are ordered largest-to-smallest in terms of total plastic packaging used annually.

**Coca-Cola**

- Post-consumer plastic content: 9%
- Target: 50% of primary packaging by 2030
- Total plastic packaging produced annually: 3.0 million metric tons
- Percentage reusable/recyclable/compostable: 99% for primary packaging only

**PepsiCo**

- Post-consumer plastic content: 3%
- 2025 target: 25%
- Total plastic packaging produced annually: 2.3 million metric tons
- Percentage reusable/recyclable/compostable: 77%

**Nestlé**

- Post-consumer plastic content: 2%
- 2025 target: 15%
- Total plastic packaging produced annually: 1.7 million metric tons
- Percentage reusable/recyclable/compostable: 65%

**Unilever**

- Post-consumer plastic content: Less than 1%
- 2025 target: 25%

- Total plastic packaging produced annually: 700,000 metric tons
- Percentage reusable/recyclable/compostable: about 50%

**Mars**

- Post-consumer plastic content: 0%
- 2025 target: 30%
- Total plastic packaging produced annually: 200,000 metric tons
- Percentage reusable/recyclable/compostable: 19%

**L'Oréal**

- Post-consumer plastic content: 5%
- 2025 target: 40%
- Total plastic packaging produced annually: 100,000 metric tons
- Percentage reusable/recyclable/compostable: Not disclosed

The Global Commitment was launched in October 2018 by the Ellen MacArthur Foundation in collaboration with the UN Environment Programme.

In March 2019, the foundation issued the first global commitment report, which outlined companies' goals and their baseline data. Over 400 organizations have now signed on to the Global Commitment, including for-profit businesses, nonprofit organizations and governments.

Among those are three beverage companies that earlier this week announced they were committing $100 million to boost plastic bottle recycling infrastructure in the U.S. (see related story): Coca-Cola, PepsiCo and Keurig Dr Pepper.

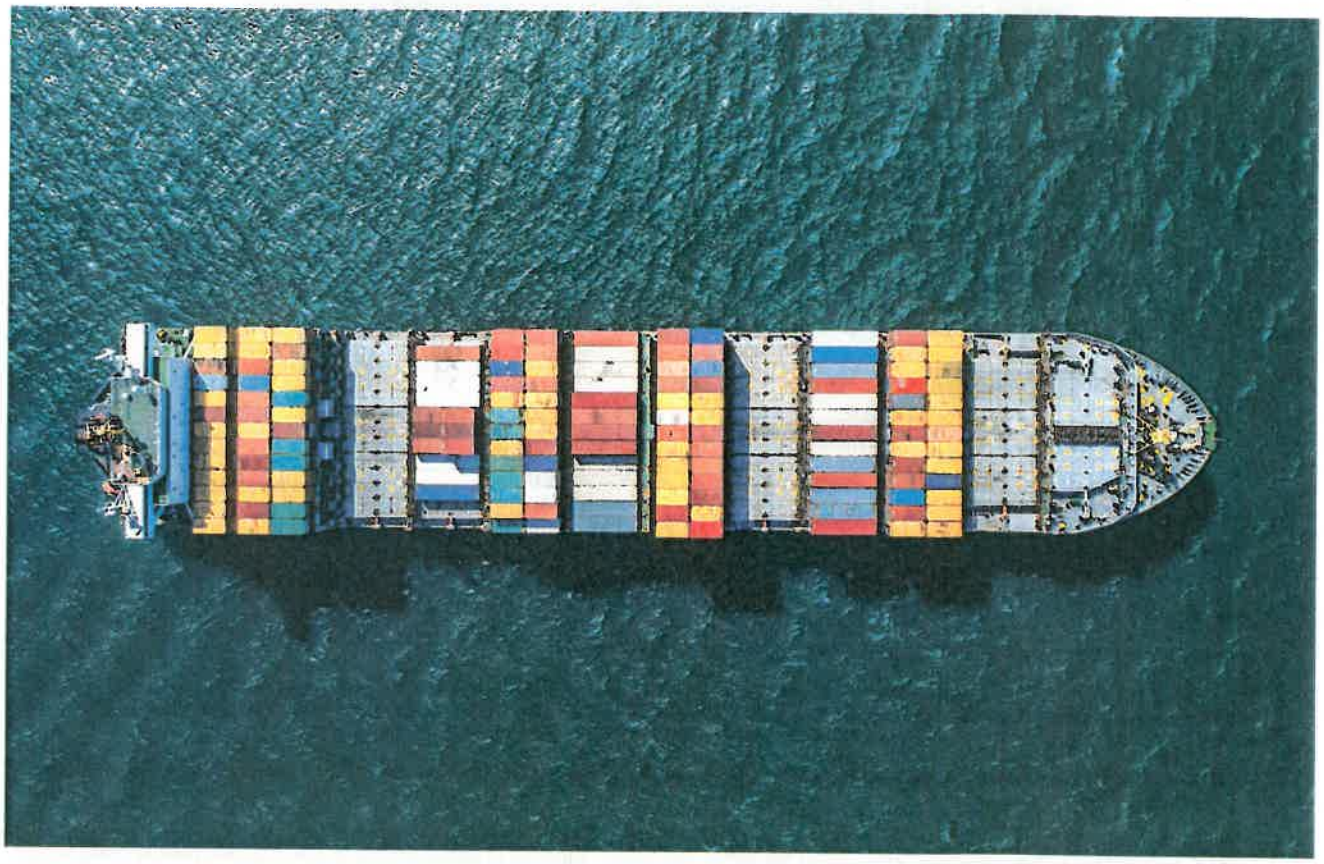
Progress by Coca-Cola and PepsiCo is reported above. According to the latest progress report, Keurig Dr Pepper had 0% post-consumer content in its plastic packaging in 2018, although it aims to have 25% by 2025. It didn't disclose its total plastic packaging produced or the percentage that's reusable, recyclable or compostable.

### *More stories about brand owners*

- Beverage giants pledge $100M to support bottle recycling
- Revolution buys bag manufacturer Pak-Sher
- The latest in marine-plastics news

# Exports decline, but domestic markets see stability - Resource Recycling News

*Colin Staub*



*U.S. exporters shipped 4.5 million short tons of recovered fiber from July through September. That's the lowest third-quarter volume since 2006. | MAGNIFIER / Shutterstock*

Overseas appetite for scrap plastic dwindled in the third quarter. On the domestic side, operators report stable movement for common curbside materials, although fiber pricing remains a challenge.

## Overseas fiber markets

U.S. exporters shipped 4.5 million short tons of recovered fiber from July through September. That's the lowest third-quarter volume since 2006.

The largest importers of U.S. recovered fiber in the third quarter were China (1.4 million short tons), India (709,000), Mexico (299,000), Taiwan (258,000), Vietnam (244,000), South Korea (218,000), Canada (196,000), Indonesia (148,000) Thailand (100,000) and Malaysia (62,000).

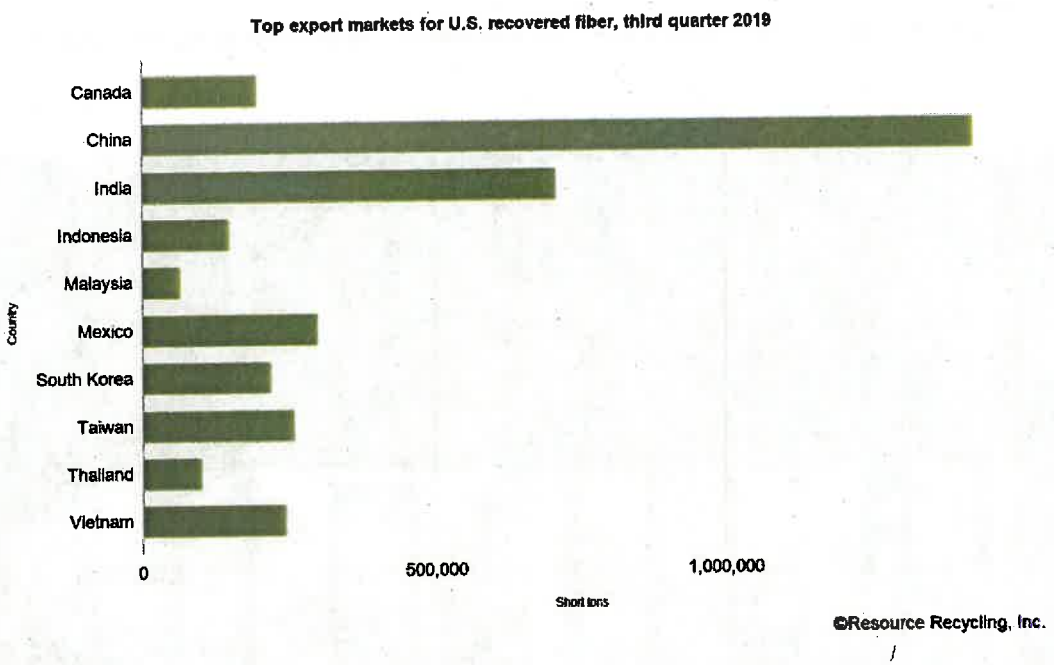
India is, by far, the largest buyer of U.S. mixed paper. In the third quarter, the country brought in 315,000 short tons of the material, which accounted for 47% of all U.S. mixed paper exports. The next largest U.S. mixed paper importer was Canada, which brought in less than a quarter of the volume India imported.

China still dominates the market for U.S. OCC exports, bringing in 43% of all U.S. exported OCC during the third quarter. The country's OCC imports from the U.S. are down year over year (dropping from 1.5 million short tons in the third quarter of 2018 to 1.1 million during that period this year).

Indonesia saw a major drop in recovered fiber imports, concurrent with the country's move to further regulate scrap fiber shipments.

The country saw some of its lowest recovered fiber import volumes of 2019, mostly due to fewer imports of mixed paper. Indonesia imported 154,000 short tons of mixed paper during the first quarter, on par with last year's weight. But by the third quarter, Indonesia imported just 6,000 short tons of mixed paper.

Indonesia's OCC imports, on the other hand, have fluctuated throughout the year. They fell as low as 21,000 short tons in July but jumped to 86,000 short tons in September, suggesting U.S. exporters are able to work with Indonesia's new import regulations.




## Plastics exports slow

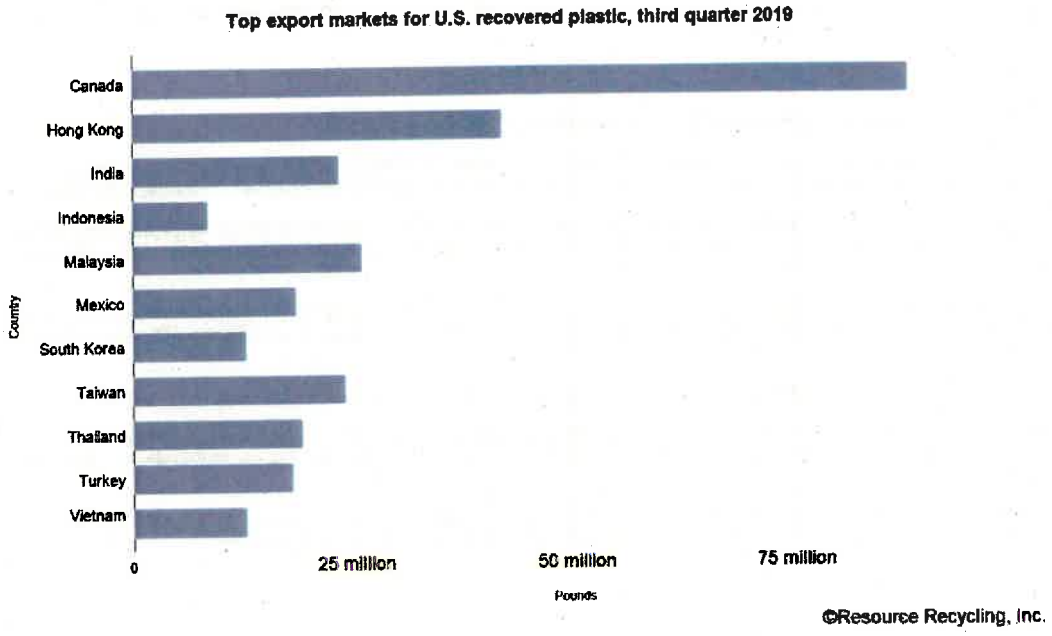
U.S. scrap plastic exports dropped to their lowest third-quarter volume on record, driven largely by major Asian buyers continuing to constrict import volumes.

Third quarter exports were also lower than the first two quarters of this year.

The largest importers of U.S. scrap plastics in the third quarter were Canada (88 million pounds), Hong Kong (42 million pounds), Malaysia (26 million pounds), Taiwan (24 million pounds), India (23 million pounds), Thailand (19 million pounds), Mexico (18 million pounds), Turkey (18 million pounds), South Korea (13 million pounds), Vietnam (13 million pounds) and Indonesia (8 million pounds).

Compared with the third quarter in 2018, major decreases were seen in plastic shipped to India (down 68%), Malaysia (down 63%) and Hong Kong (down 37%).

The third quarter was particularly notable for exports to India, because that country implemented stringent scrap plastic import restrictions at the end of August. The monthly shipment figures reflect this policy: The country imported 15 million pounds in July, 5 million pounds in August and 4 million pounds in September.




## Recycling 'out of sync' with wider economy trends

On the fiber side, recycling firms are being forced to reckon with a massive drop in OCC prices over the past year and longer. According to RecyclingMarkets.net, the national average OCC price has dropped from $70 per ton a year ago to $25 per ton currently.

"That's hard to plan for and to swallow," said Suzanne Jones, executive director of Colorado-based Eco-Cycle. "This spring in particular, with the market saturation, there was a time when it was hard to move."

Mills were "filled to the gills" and didn't want to buy any more OCC, Jones noted. She added the OCC supply and demand issues appear to be settling out since then, but that the price clearly remains depressed. And that has had impacts on the wider economics of the curbside stream.

"Our overall blended value has fluctuated wildly from what we would like and what it was a year ago," Jones said.

OCC and old newspaper (ONP) are the largest portions of Eco-Cycle's fiber stream. The organization tries to avoid making mixed paper as much as possible, preferring to create a higher-value product. But given the additional sorting required, that can be a challenge. With record low unemployment in Colorado and across the country, hiring additional manual sorters can be difficult.

Jones noted it's a strange juxtaposition between the wider economy and what's happening in the recycling industry.

"This is one of those things where the economy is booming, the Colorado economy is booming, wages are going up, but we're getting really deflated prices with this industry," she said. "The industry is out of sync with that's happening in the larger economy."

As for the mixed paper Eco-Cycle generates, Jones said the grade is "worth next to nothing, and occasionally we even have to eat the transportation costs."

Transportation is a similar hurdle for Des Moines, Iowa-based Mid America Recycling.

Des Moines, is "about as far away as you can get and maybe be in the transportation circles" for several mills that use recovered fiber, said Mick Barry, president of the MRF operator.

The company has seen its share of disruption over the past couple years as mill demand for OCC has fluctuated. Currently, Barry said, Mid America ships all of its recovered fiber to North American mills, in the Midwest and down to Mexico by rail.

## Plastics stay domestic, too

As export volumes continue a slog downward, domestic markets for curbside plastics are taking material, but pricing has varied substantially.

"Markets have been all over the place," Jones said. Eco-Cycle operates the Boulder County Recycling Center and produces between 235 to 275 tons of plastic per month. "We've seen some pretty big swings over the last four months, down one month, up the next."

Mid America makes bales of natural HDPE, color HDPE, PET and mixed plastics Nos. 3-7. Like its fiber, virtually all the company's plastics remain in North America. Mid America moved away from export markets in recent years based on the interest of its large retail suppliers, who don't want to see their recyclables being poorly processed in a country without the proper infrastructure, Barry explained.

"They do not want their material going to a marginally acceptable market," he said.

The cost effectiveness of exporting is also tenuous for Mid America.

"Out of Des Moines, Iowa, it doesn't make a whole lot of sense financially," Barry said. When plastic prices are higher, the MRF can still generate a profit after shipping material to ports for export. But when prices drop below about 20 cents per pound, Barry noted, export becomes unrealistic. "In the dimes, the freight doesn't work out," he said.

Although natural HDPE has skyrocketed in price in recent weeks, the same can't be said for other grades such as PET. According to RecyclingMarkets.net, post-consumer PET bales are trading for 35% less than they were a year ago.

Jones referenced numerous recent pledges from brand owners who say they will use more recycled plastic in containers, but she said those commitments have not yet translated into increased demand in the marketplace.

"They aren't putting their money where their mouth is," Jones said.

## Relative stability for plastics movement

Over the past year, Eco-Cycle has had to temporarily store material, but it hasn't been forced to dispose of recyclables.

"We have never landfilled recyclables and we hope to never have to do that in our history," Jones said. "There's a very strong ethic about finding the markets."

Eco-Cycle's Center for Hard to Recycle Materials (CHaRM) is similarly moving the variety of low-grade plastics, including expanded polystyrene (EPS), film and mixed rigids.

Similar to the MRF, the center's mixed rigids are also being sold domestically for plastic railroad tie production. On the film side, the center has seen prices drop significantly, but movement continues. CHaRM has handled about 90,000 pounds of EPS this year and is receiving about 18 cents per pound for it, said Dan Matsch, director of CHaRM.

Like Eco-Cycle, Mid America is in the position of having a nearby domestic processor for mixed plastic bales.

"They re-sort it and try to upgrade the No. 5s," Barry said, referring to the resin identification code for polypropylene. "We just don't have enough optical scanning or manpower to grab 5s out." (Mixed plastic bales are more valuable to a company if that company has the resources to extract the valuable PP.)

Barry's downstream plastics processor purchases mixed bales from Mid America for 1 or 2 cents per pound, and the company then sells recycled resin to large plastic manufacturers.

### *More stories about Markets*

- Thermoform recycling operation coming to California
- Awards recognize variety of recycled-content products
- Recycled HDPE prices continue to escalate