

California Code of Regulations

Title 14. Natural Resources

Division 7. Department of Resources Recycling and Recovery

***Chapters 1, 2, 3, 3.1, 3.2, 3.5, 4, 5, 6, 7, 9, 9.1, 10,
11 and 12***

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Introduction

This publication contains regulations implementing programs administered by CalRecycle. Within this document are regulations pertaining to California Code of Regulations; Title 14, Natural Resources; Division 7, Department of Resources Recycling and Recovery (Chapters 1, 2, 3, 3.1, 3.2, 3.5, 4, 5, 5.9, 6, 7, 9, 9.1, 10, 11 and 12). Please note, this document includes only regulations pertaining to nonhazardous waste management in California; the following Chapters have been omitted from this document: 4.5, 7.2, 8, and 8.2.

The regulations within this document go into effect on January 1, 2022, unless otherwise stated. While every effort has been made to ensure accuracy, any errors or omissions do not negate the rights and duties of program participants. In addition, this edition does not correct grammatical or typographical errors that appear in the regulations as adopted. Visit the Office of Administrative Law website (managed by Thomson Reuters/Westlaw) for access to the official online version of all California regulations.

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Division 7. Department of Resources Recycling and Recovery

Chapter 1. General Provisions

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Definitions

Section 17017. Definitions.

As used in this division:

(a) "Department" means the Department of Resources Recycling and Recovery, which is vested with the authority, duties, powers, purposes, responsibilities and jurisdiction of the former California Integrated Waste Management Board (board).

(b) "Board" or "CIWMB" means the California Integrated Waste Management Board, which, as of January 1, 2010, ceased to exist as an agency and became part of (subjoined into) a new Department of Resources Recovery and Recycling (Department).

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

Reference: Sections 40110, 40400, 40401, 03020 and 43021, Public Resources Code.

Article 2. Contracting with Architectural, Engineering, Environmental, Land Surveying and Construction Project Management Firms

Section 17020. Definitions.

As used in these regulations:

(a) "Architectural, engineering, environmental, land surveying services," and "construction project management" have the respective meanings set forth in Section 4525 of the Government Code.

(b) "Board" means the California Integrated Waste Management Board or the Board's designee authorized to contract for architectural, engineering, environmental, land surveying and construction project management services on behalf of the board.

(c) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, environmental services, land surveying, or construction project management.

(d) "M/WBE" means Minority Business Enterprise and/or Women Business Enterprise.

(e) "DVBE" means Disabled Veteran Business Enterprise..

(f) "Small Business Firm" has the meaning set forth in Section 14837(c) of the Government Code .

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4525 and 4526, Government Code.

Section 17021. Publication of Request for Qualifications.

(a) The board shall publish a Request for Qualifications (RFQ) for expected architectural, engineering, environmental, land surveying and construction project management services in the State Contracts Register and in statewide publications of appropriate professional societies.

(b) The announcement shall include the following information: a contract identification number, a brief description of services required; location, budget, and duration; eligibility and preferences; submittal requirements and deadlines; and name and telephone number of board contact for questions on the publication.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4526, 4527 and 4529.5, Government Code.

Section 17022. Selection Criteria.

The board shall select firms based on their ability to perform the specific functions outlined in the RFQ. The criteria for selection will include:

(a) Overall professional experience, reliability, and continuity of the firm as related to the tasks described in the RFQ.

(b) Professional experience of the firm in executing contracts of a similar nature.

(c) Adequacy of personnel numbers within specific disciplines required to complete the work required by the RFQ.

(d) Experience and training of key personnel as related to the work described in the RFQ.

(e) Adequacy of number of principal(s) which are intended to be assigned to the contract.

(f) Knowledge of applicable regulations and technology associated with the contract.

(g) Quality and timeliness of recently completed or nearly completed projects which were similar to the work described in the RFQ.

(h) Specialized qualifications for the services to be performed.

(i) Compliance with M/WBE and DVBE goals or good faith effort pursuant to Public Contract Code Section 10115 et seq.

These factors shall be weighted by the board according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4526, 4527 and 4529.5, Government Code.

Section 17023. Selection of Firms.

After expiration of the deadline date in the publications, the board shall review and rank eligible firms on file at the board using the selection criteria contained in Section 17022. The board shall conduct interviews with no less than the top three ranked firms to discuss qualifications and methods for furnishing the required services. From the firms with which discussions are held, the board shall select no less than three, in order of preference, based upon the established criteria, who are deemed to be the most highly qualified to provide the services required.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4526, 4527 and 4529.5, Government Code.

Section 17024. Negotiation of Contract

(a) The board shall request a detailed Fee Proposal from the best qualified firm and shall require a State's Estimate of Fees to be prepared by board staff prior to negotiations. The State's estimate shall remain confidential until award of contract or abandonment of any further procedure for the services to which it relates. If the board determines the State's estimate to be unrealistic for any reason, the board shall require the estimate to be reevaluated and modified if necessary.

(b) The board shall attempt to negotiate a contract with the best qualified firm. Should the board be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The board shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The board shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the board be unable to negotiate a satisfactory contract with any of the selected firms, the board may select additional firms in the manner

prescribed above and continue the negotiation procedure until an agreement is reached.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Section 4528, Government Code.

Section 17025. Contract Agreement.

(a) After successful negotiations, the board and the firm shall complete and sign the contract agreement.

(b) In instances where the State effects a necessary change in the contract during the course of performance of the services, the firm's compensation may be adjusted by mutual written agreement.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Section 4528, Government Code.

Section 17026. Contracting in Phases.

Should the board determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price in the initial instance, provided that the board shall have determined that the firm is best qualified to perform the whole project at reasonable cost, and the contract contains provisions that the state, at its option, may utilize the firm for other phases and the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually-agreed upon and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Section 4526, Government Code.

Section 17027. Emergency Contracting.

Where the board makes a finding of emergency, the board may negotiate a contract for such services without following procedures in Sections 17020 - 17029. The finding of emergency must include a finding that conditions at a solid waste facility pose an imminent threat to life or health and insufficient time exists to implement the foregoing procedures to secure services. The selection criteria will be the same as those listed in Section 17022 and fees will still be negotiated as described in Section 17024. The announcement, formal ranking, and interviewing procedures, as specified in Sections 17021 and 17023 may be by-passed.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45002, 45402 and 45403, Public Resources Code.

Section 17028. Small Business Participation.

The board shall endeavor to provide copies of announcements for services to Small Business Firms that have indicated an interest in receiving such announcements. Failure of the board to send a copy of an announcement to any firm shall not invalidate any selection or contract.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4526 and 4527, Government Code.

Section 17029. Unlawful Activities and Conflict of Interest.

Practices which might result in unlawful activity, including, but not limited to, rebates, kickbacks, or other unlawful consideration are prohibited. Additionally, a board employee shall not participate in the selection process if the employee has a relationship of a type specified in Section 87100 of the Government Code, with a person or business entity seeking a contract subject to this chapter.

Authority cited: Section 40502, Public Resources Code; Section 4526, Government Code.

Reference: Sections 45402 and 45403, Public Resources Code; Sections 4526, Government Code.

Article 3. Implementation of Federal Laws

Section 17031. Regional Boundaries.

Pursuant to Section 4006(a) of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, 42 USC Section 6946, the following boundaries are identified for solid waste management in California:

(a) The boundaries of each of the 58 counties in California for addressing local issues;

(b) The boundaries of the jurisdiction of each of the ten Metropolitan Councils of Governments and of the California Tahoe Regional Planning Agency for addressing regional issues. These boundaries are as follows:

(1) The boundaries of the area lying within the jurisdiction of the Association of Bay Area Governments which include the Counties of Alameda, Contra Costa, Marin, San Francisco, Napa, San Mateo, Santa Clara, Solano, and Sonoma;

- (2) The boundaries of the area lying within the jurisdiction of the Association of Monterey Bay Area Governments which include the Counties of Monterey and Santa Cruz;
 - (3) The boundaries of the area lying within the jurisdiction of the Comprehensive Planning Organization of the San Diego Region which include the County of San Diego;
 - (4) The boundaries of the area lying within the jurisdiction of the Sacramento Regional Area Planning Commission which include the Counties of Sacramento, Sutter, Yolo, and Yuba and the City of Roseville;
 - (5) The boundaries of the area lying within the jurisdiction of the Southern California Association of Governments which include the counties of Imperial, Los Angeles, Orange, Riverside, San Bernardino and Ventura;
 - (6) The boundaries of the area lying within the jurisdiction of the Council of Fresno County Governments which include the County of Fresno;
 - (7) The boundaries of the area lying within the jurisdiction of the Kern County Council of Governments which include the County of Kern;
 - (8) The boundaries of the area lying within the jurisdiction of the San Joaquin County Council of Governments which include the County of San Joaquin;
 - (9) The boundaries of the area lying within the jurisdiction of the Santa Barbara County - Cities Area Planning Council which include the County of Santa Barbara;
 - (10) The boundaries of the area lying within the jurisdiction of the Stanislaus Area Association of Governments which include the County of Stanislaus; and
 - (11) The boundaries of the area lying within the jurisdiction of the California Tahoe Regional Planning Agency which include that part of Lake Tahoe within the jurisdiction of the State of California, the adjacent parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all Sections referring to Township 15 North, Range 16 East, MDB&M;
- (c) The boundaries of the State of California for addressing statewide issues.

Comment: This regulation may be modified from time to time identifying additional or different regional boundaries pursuant to Section 4006(a) of the Act. The method for identifying unspecified State, regional and local issues will be set forth in the regulation concerning identification of agencies and their responsibilities. Regional issues will be determined by the State Solid Waste Management Board with the advice of the affected counties and regional agencies.

Section 17032. Agencies.

Pursuant to Section 4006 (b) of the Resource Conservation and Recovery Act of 1976, P.L. 94-580, 42 USC Section 6946 and Section 66793 of the Government Code, the following responsible agencies are identified for solid waste management in California:

(a) Within each of the counties in California, the Boards of Supervisors are responsible, with the approval of a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, for local planning a implementation of solid waste management in accordance with Section 66780 of the Government Code with the following exceptions:

(1) Within the County of Alameda, the Alameda County Solid Waste Management Authority is responsible for solid waste planning and implementation;

(2) Within the County of Merced, the Merced County Solid Waste Advisory Board is responsible for solid waste planning and implementation;

(3) Within the County of Santa Clara, the Solid Waste Planning Committee is responsible for solid waste planning and implementation;

(4) Within the County of Ventura, the Ventura Regional County Sanitation District is responsible for solid waste planning and implementation with the approval of a majority of the cities within the county which contain a majority of the population of the incorporated area of the county;

(5) Within the County of Los Angeles, the Los Angeles County Solid Waste Management Committee is the responsible countywide agency for solid waste planning. Implementation shall be accomplished by those responsible agencies identified in the Los Angeles County Solid Waste Management Plan.

(b) Regional issues will be determined by the State Solid Waste Management Board with the advice of the affected counties and regional agencies.

(c) For regional planning, the following agencies are identified:

(1) The Association of Bay Area Governments is responsible for regional issues for solid waste management planning within the boundaries of the area including the Counties of Alameda, Contra Costa, Marin, San Francisco, Napa, San Mateo, Santa Clara, Solano and Sonoma;

(2) The Sacramento Regional Area Planning Commission is responsible for regional issues for solid waste management planning within the boundaries of the area including the Counties of Sacramento, Sutter, Yolo, Yuba, and the City of Roseville;

(3) The Southern California Association of Governments is responsible for regional issues for solid waste management planning within the boundaries of the area including the Counties of Imperial, Los Angeles, Orange, Riverside, and San Bernardino;

(4) The California Tahoe Regional Planning Agency is responsible for regional issues for solid waste management planning within the boundaries of the area including that part of Lake Tahoe within the jurisdiction of the State of California, the adjacent parts of the Counties of El Dorado and Placer lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all Sections referring to Township 15, North, Range 16 East, M.D.B.&M.

(d) For statewide solid waste management planning and implementation the following are identified:

(1) The State Solid Waste Management Board is responsible for solid waste management planning and implementation within the boundaries of the State of California;

(2) The State Department of Health is responsible for hazardous waste management planning and implementation within the boundaries of the State of California.

Comment: The State Solid Waste Management Board widely distributed to the interested public a request for nominations of agencies. Based on the nominations of agencies. Based on the nominations received, a proposed regulation was drafted and circulated for comment prior to two public hearings; one on April 4, 1978 in the State Building, 455 Golden Gate Avenue, Room 1200, San Francisco, California, and the other on April 5, 1978 in the Inglewood City Hall, One Manchester Boulevard, Community Room, Inglewood, California. This regulation was finally considered at a regularly scheduled public State Solid Waste Management Board Meeting on April 21, 1978, and was adopted at the time as amended.

Authority cited: Section 66790, Government Code; Section 6946, 42 United States Code; and Section 4006, 90 Stat. 2816, P.L. 94-580, Federal Resource Conservation and Recovery Act of 1976. Reference: Section 66793, Government Code.

Article 4. Public Records.

Section 17041. Scope and Applicability.

This Article shall apply to all requests to the Department pursuant to the California Public Records Act (Government Code Sections 6250 et seq.) for the disclosure of public records or for maintaining the confidentiality of data received by the Department.

Authority cited: Sections 40502, 42297, and 42325, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, and 42783, Public Resources Code; Section 6250 et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 4598, Revenue and Taxation Code.

Section 17042. Disclosure Policy.

It is the policy of the Department that all records not exempted from disclosure by state or federal law shall be available for public inspection as provided in the California Public Records Act, Government Code Section 6250 et seq. Requests for records that are not exempt from disclosure by state or federal law, and which are determined as provided in this Article to be confidential or proprietary, shall be evaluated to determine whether, on the facts of the particular case, the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record.

Authority cited: Sections 40502, 42297, and 42325, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, 42783, Public Resources Code; Section 6250 et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 45982, Revenue and Taxation Code.

Section 17043. Requests for Public Records

All requests for public records, as defined in Government Code Section 6252, shall be made in writing to the Department's custodian of records, and shall be addressed as follows:

Department of Resources Recycling and Recovery

1001 I Street, MS-24B
P.O. Box 4025
Sacramento, California 95812-4025

Authority cited: Sections 40502, 42297, and 42325, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, and 42783, Public Resources Code; Section 6250 et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 45982, Revenue and Taxation Code.

Section 17044. Submittal of Trade Secrets.

Any person submitting to the Department any records containing data claimed to be a "trade secret," as defined in Public Resources Code Section 40062, shall at the time of submission, identify all information which the person believes is a trade secret, and shall provide the name, address and telephone number of the individual to be contacted if the Department receives a request for disclosure of or seeks to disclose the data claimed to be trade secret. Any information not identified by the person as a trade secret shall be made available to the public, unless exempted from disclosure by another provision of law.

Authority cited: Sections 40502, 42297, and 42325, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, and 42783, Public Resources Code; Section 6250

et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 45982, Revenue and Taxation Code.

Section 17045. Submittal of Confidential or Proprietary Data.

Any person submitting to the Department any records containing data claimed to be confidential or proprietary, or to be otherwise exempt from disclosure under Government Code Section 6250 et seq., or under other applicable provisions of law shall, at the time of submission, identify in writing the portions of the records containing such data as "confidential" or "proprietary," and shall provide the name, address and telephone number of the individual to be contacted if the Department receives a request for disclosure of or seeks to disclose the data claimed to be confidential.

Authority cited: Sections 40502, 42297, and 42325, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, and 42783, Public Resources Code; Section 6250 et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 45982, Revenue and Taxation Code.

Section 17046. Disclosure of Trade Secrets and Confidential or Proprietary Data.

(a) This Section shall apply to all data in the custody of the Department:

(1) which is designated "trade secret", as defined in Public Resources Code Section 40062,

(2) which is considered by the Department or identified by the person who submitted the data to be confidential or proprietary data

(3) which is received from a federal, state or local agency with a confidential or proprietary data designation, or

(4) which is exempt from disclosure under Government Code Section 6250 et seq., or under other applicable provisions of law.

(b) Confidential or proprietary information shall include, but is not limited to:

(1) personal or business-related financial data, customer client lists, supplier lists and other information of a proprietary or confidential business nature provided by persons in applications, reports, returns, certifications or other documents submitted to the Department which if released would result in harmful effects on the person's competitive position;

(2) tax information prohibited from disclosure, pursuant to the Revenue and Taxation Code.

(c) Upon receipt of a request from a member of the public that the Department disclose data claimed to be trade secret, confidential or proprietary information, or if the Department, upon its own initiative, seeks to disclose such data, the Department shall

inform the individual designated pursuant to Section 17045 in writing that disclosure of the data is sought, and that a determination is being made as to whether any or all of the information has been properly identified as trade secret, confidential or proprietary information.

(1) If the Department determines that the information is not trade secret, confidential or proprietary information, the Department shall notify the person who furnished the information by certified mail. The person who furnished the information shall have 30 days after receipt of this notice to provide the Department with a complete justification and statement of the grounds on which the trade secret, confidential or proprietary information claim is being made. The justification and statement shall be submitted to the Department by certified mail. The deadline for filing the justification may be extended by the Department upon a showing of good cause made prior to the deadline specified for its receipt.

(A) The justification and statement submitted in support of a claim of trade secret, confidential or proprietary information shall include, but is not limited to, the following:

a specific description of the data claimed to be entitled to treatment as trade secret, confidential or proprietary information;

a statement as to whether it is asserted that the data is a trade secret, is confidential or proprietary information, that disclosure of the data would result in harmful effects on the person's competitive position, and if so, the nature and extent of such anticipated harmful effects;

any statutory or regulatory provisions under which the claim of trade secret, confidentiality or proprietary is asserted;

the period of time for which trade secret, confidential or proprietary treatment is requested;

the extent to which the data has been disclosed to others and whether its trade secret, confidential or proprietary, status has been maintained or its release restricted;

trade secret, confidentiality or proprietary determinations, if any, made by other public agencies as to all or part of the data and a copy of any such determination, if available.

(B) Documentation, as specified in (A), in support of a claim of trade secret, confidentiality or proprietary may be submitted to the Department prior to the time disclosure is sought.

(2) The Department shall determine whether the information is protected as trade secret, confidential or proprietary information within 15 days after receipt of the justification and statement or, if no justification and statement is filed, within 45 days of the notice required by paragraph (1). The Department shall notify the person who furnished the information and any party who has requested the information pursuant to a public records request of the determination, by certified mail.

(3) If the Department determines that the information is not protected as trade secret, confidential or proprietary information, the notice required by paragraph (2) shall also specify a date, not sooner than 15 days after the date of mailing of the notice, when the information shall be made available to the public.

(d) Except as provided in subdivision (c), the Department may release information submitted and designated as trade secret, confidential or proprietary information to the following under the following conditions:

(1) Other governmental agencies, and the Legislature, may receive information that has been compiled or aggregated from confidential information, but does not reveal the specific sources of the information, when the information has been requested in connection with a local enforcement agency's or the Department's responsibilities under this division or for use in making reports.

(2) to the state or any state agency in judicial review for enforcement proceedings involving the person furnishing the information.

(e) Should judicial review be sought of a determination issued in accordance with Section (c), the person requesting the data and/or the person making the claim of trade secret, confidential or proprietary information status in relation to the data, may be made a party or parties to the litigation to justify the determination.

Authority cited: Sections 42297, 42345, Public Resources Code; and Section 6253, Government Code.

Reference: Sections 40062, 42323, and 42783, Public Resources Code; Section 6250 et seq., Government Code; and Sections 17052.14, 19542, 23612.5 and 45982, Revenue and Taxation. Code

Section 17047. Scope. [Repealed]

Article 5. Unreliable Contractors, Subcontractors, Borrowers and Grantees

Section 17050. Grounds for Placement on Unreliable List.

The following are grounds for a finding that a contractor, any subcontractor that provides services for a board agreement, grantee or borrower is unreliable and should be placed on the board's Unreliable Contractor, Subcontractor, Grantee or Borrower List ("Unreliable List"). The presence of one of these grounds shall not automatically result in placement on the Unreliable List. A finding must be made by the Executive Director in accordance with Section 17054, and there must be a final decision on any appeal that may be filed in accordance with Section 17055 et seq.

(a) Disallowance of any and/or all claim(s) to the board due to fraudulent claims or reporting; or

(b) The filing of a civil action by the Attorney General for a violation of the False Claims Act, Government Code Section 12650 et. seq; or

(c) Default on a board loan, as evidenced by written notice from board staff provided to the borrower of the default; or

(d) Foreclosure upon real property loan collateral or repossession of personal property loan collateral by the board; or

(e) Filing voluntary or involuntary bankruptcy, where there is a finding based on substantial evidence, that the bankruptcy interfered with the board contract, subcontract, grant or loan; or

(f) Breach of the terms and conditions of a previous board contract, any subcontract for a board agreement, grant, or loan, resulting in termination of the board contract, subcontract, grant or loan by the board or prime contractor; or

(g) Placement on the board's chronic violator inventory established pursuant to Public Resources Code Section 44104 for any owner or operator of a solid waste facility; or

(h) The person, or any partner, member, officer, director, responsible managing officer, or responsible managing employee of an entity has been convicted by a court of competent jurisdiction of any charge of fraud, bribery, collusion, conspiracy, or any act in violation of any state or federal antitrust law in connection with the bidding upon, award of, or performance under any board contract, subcontract, grant or loan; or

(i) The person or entity is on the list of unreliable persons or entities, or similar list, of any other federal or California state agency; or

(j) The person or entity has violated an Order issued in accordance with Section 18304; or,

(k) The person or entity has directed or transported to, has or accepted waste tires at, a site where the operator is required to have but does not have a waste tire facility permit; or,

(l) The person or entity has transported waste tires without a waste tire hauler registration; or,

(m) The person or entity has had a solid waste facility or waste tire permit or a waste tire hauler registration denied, suspended or revoked; or,

(n) The person or entity has abandoned a site or taken a similar action which resulted in corrective action or the expenditure of funds by the Board to remediate, clean, or abate a nuisance at the site; or

(o) The following are additional grounds for a finding that, a person or entity described below should be placed on the Unreliable List:

(1) The person or entity owned 20% or more of an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List;

(2) The person held the position of officer director, manager, partner, trustee, or any other management position with significant control (Principal Manager) in an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List;

(3) The entity includes a Principal Manager who:

Was a Principal Manager in an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List; or,

Owned 20% or more of an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List;

(4) The entity has a person who owns 20% or more of the entity, if that person:

Was a Principal Manager in an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List; or,

Owned 20% or more of an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List.

(5) The entity has another entity which owns 20% or more of the entity, if that other entity:

Is on the Unreliable List; or,

Owned 20% or more of an entity on the Unreliable List at the time of the activity that resulted in its placement on the Unreliable List.

(6) SubSection (o) is not intended to apply to a person or entity that purchases or otherwise obtains an entity on the Unreliable List subsequent to its placement on the Unreliable List.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17051. Board Agreement for Contract, Grant or Loan.

(a) The Board shall not award a contract or grant, or approve a loan to any person or entity on the Unreliable List, for up to three years from the date of placement on the Unreliable List.

(b) This prohibition does not apply to Block Grants awarded pursuant to Public Resources Code Section 48690.

(c) This prohibition does not apply when the contract, grant or loan is for the purpose of resolving the chronic violations which led to the person or entity's placement on the Unreliable List in accordance with Section 17050(g).

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17052. Board Agreement for Contract, Grant or Loan with Proposed Subcontractor.

The board shall not award a contract or grant or approve a loan with any person or entity who has proposed to enter into a subcontract with any person or entity who would provide services for the main agreement, if that person or entity is on the Unreliable List, for up to three years from the date of placement on the Unreliable List.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17053. Board Subcontractors

The board shall not give approval for a contractor, grantee or borrower to enter into a subcontract with any person or entity who provides services for the main agreement, if that person or entity is on the Unreliable List, for up to three years from the date of placement on the Unreliable List.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17054. Executive Director Finding.

(a) The Executive Director may make a proposed finding of unreliability based on the occurrence of any event in Section 17050. The proposed finding may be made at any time within 3 years after Board staff discover that one or more of the events in Section 17050 may have occurred.

(b) In making such a finding, the Executive Director shall take into consideration mitigating factors which indicate that the person or entity is in fact reliable. These factors shall include, but are not limited to the following:

(1) Whether the violation, breach, or unlawful act was serious or material;

(2) The presence or absence of any intention to conceal, deceive, or mislead;

- (3) Whether the violation, breach, or unlawful act was deliberate, negligent, or inadvertent;
- (4) Whether the violation, breach, or unlawful act was an isolated occurrence, had happened previously, or is part of a pattern and practice;
- (5) Whether the person or entity cooperated with local, state or federal authorities or took remedial action to correct, address, or prevent a future violation, breach, or unlawful act.
- (6) The degree to which restitution, or other compensation, has been paid.
- (c) After the Executive Director has made a proposed finding of unreliability, the Executive Director shall notify the person or entity of the proposed finding by certified or registered mail.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17055. Appeal to Board.

A person or entity who wishes to appeal the Executive Director's proposed finding of unreliability may, within 30 calendar days from the date notification was sent, submit to the Executive Director a written request for an appeal hearing before the board. The request shall state the grounds on which appeal is requested, including the factual and legal argument and supporting authorities.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17056. Final Finding.

- (a) If the Executive Director does not receive a request for appeal within 30 calendar days from the date notice of the proposed finding was sent, the finding shall become final, and the person or entity shall be added to the Unreliable List.
- (b) If a person or entity appeals the proposed finding, but withdraws the appeal or fails to attend the scheduled hearing, the proposed finding shall become final upon withdrawal of the appeal or failure to attend the hearing, and the person or entity shall be added to the Unreliable List.
- (c) If a person or entity appeals the proposed finding of unreliability and the board upholds the Executive Director's finding, the proposed finding shall become final and the person or entity shall be added to the Unreliable List.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17057. Hearing.

The appeal to the board will be heard at a board meeting according to the following guidelines. The board has the right to augment these guidelines with specific time frames and procedures to fit within the board's agenda deadlines and meeting format. The appellant may request that the hearing be conducted in closed session to the extent authorized by law and shall indicate the basis for such a request.

(a) The board shall schedule a hearing within 60 days from the appellant's request for hearing.

(b) Prior to the hearing, board staff will inform appellant of the date for the hearing and provide a copy of the agenda item. The appellant's request for appeal will be included in the agenda item. Appellant may submit additional information for consideration at the board meeting.

(c) The hearing need not be conducted according to the technical rules relating to civil procedure, evidence and witnesses which would apply in a court of law.

(d) The hearing shall not be governed by the Administrative Procedure Act, Government Code Sections 11340 et. seq.

(e) The Chairman of the Board may limit evidence and presentations to the issues relevant to the appeal.

(f) There may be a presentation by board staff and/or attorneys and a presentation by appellant and/or its attorneys.

(g) Oral testimony offered by any witness shall be under oath.

(h) The attorneys for the board and appellant shall not cross examine each other's witnesses.

(i) Rebuttal testimony may be offered.

(j) After considering all presentations and evidence, the board shall vote to uphold or overturn the proposed finding of unreliability made by the Executive Director. A vote to uphold the finding means that the appellant will be added to the Unreliable List for up to three years from the date of the board meeting. A vote to overturn the Executive Director's finding means that the appellant will not be added to the Unreliable List. In the case of a tie vote, the appellant shall not be added to the Unreliable List.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17058. Reconsideration of Placement on Unreliable List.

At any time after eighteen months and prior to three years since placement on the Unreliable List, a person or entity may submit a written request to the Executive Director requesting that the final finding of unreliability be vacated. This request may be submitted once only during the three year term of the Unreliable List. The Executive Director will reconsider the finding of unreliability based on the evidence submitted in the request. If the Executive Director finds that there is sufficient evidence to deem the person or entity reliable, they will be removed from the list. If there is not sufficient evidence to deem the person or entity reliable, then placement on the Unreliable List remains to the end of the three-year term.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17059. Pending Award.

When an appeal hearing has been requested, if there is a pending award or approval of a contract, subcontract, grant or loan, and if appellant can show that it is otherwise entitled to the award or approval, the agreement shall not be awarded or approved until such time as the appeal has been heard and the proposed finding of unreliability has become final or vacated. This Section is not intended to affect existing contracts, grants, or loans.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a) and (b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655 and 48690, Public Resources Code; and Section 12166, Public Contracts Code.

Section 17060. Declaration.

All applicants for board contracts, subcontracts, grants and loans shall submit to the board and all subcontractors shall submit to the prime contractor who will submit to the Board, a declaration under penalty of perjury stating that none of the events in Section 17050 have occurred with respect to the applicant, or subcontractor, within the preceding three years.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

Section 17062. Existing Law.

Placement of a person or entity on the Unreliable List is not intended to limit the Board's ability to seek additional redress or take corrective action as may be allowed by law due to the occurrence of an event listed in Section 17050.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 40505, 41956, 42010(c), 42846(a)&(b), 42872, 42882, 43230, 45000(c), 47200(a), 48021(b), 48100, 48101, 48631, 48632, 48643, 48655, 48690, Public Resources Code; Section 12166, Public Contracts Code.

***Chapter 2. Planning Guidelines and Procedures
for Preparing, Revising and Amending County
Solid Waste Management Plans [Repealed]***

**SubChapter Ghost Header for Outline ADA
Compliance**

Article Ghost Header for Outline ADA Compliance

Repeal

Chapter 3. Minimum Standards for Solid Waste Handling and Disposal

SubChapter Ghost Header for Outline ADA Compliance

Article 1. General

Section 17200. Authority.

The regulations contained herein are promulgated pursuant to Public Resources Code (PRC) Sections 43020 and 43021 and Health and Safety Code Section 4520. No provision in Chapter 3 shall be construed as a limitation or restriction upon the Board's right to exercise discretion which is vested in it by law. Nor shall any provision be construed to limit or restrict counties and cities from promulgating enactments which are as strict as or stricter than the regulations contained in this chapter. However, no city or county may promulgate enactments which are inconsistent with the provisions of this chapter. Any reference in this chapter to an enforcement agency shall be deemed to mean the enforcement agency created pursuant to Public Resources Code Sections 43200-43219.

Authority cited: *Sections 66770-66774, Government Code.*

Reference: *Sections 66770-66774 and Chapters 1, 2, and 3 of Title 7.3 and Section 11125, Government Code.* Section 17201. Compliance with Laws and Regulations.

Section 17201. Compliance with Laws and Regulations.

Nothing in these standards shall be construed as relieving an owner, operator, or designer from the obligation of obtaining all required permits, licenses, or other clearances, and complying with all orders, laws, regulations, or other requirements of other approval, regulatory or enforcement agencies, such as, but not limited to, the Department, local health entities, water and air quality control boards, local land use authorities, fire authorities, etc.

Article 2. Purpose and Intent

Section 17202. Purpose.

The purpose of these regulations is to promote the health, safety and welfare of the people of the State of California, and to protect the environment by establishing minimum standards for the handling of solid wastes.

Section 17203. Intent.

By adopting these standards, the Board hereby sets forth performance standards for solid waste handling activities which are of state concern, as required by Public Resources Code Section 43021, and sets forth minimum substantive requirements for

operators' submission of information concerning individual solid waste facilities.

Section 17204. Intent of Standards.

These standards are generally intended to describe required levels of performance rather than detailed requirements. Wherever possible, operators and designers shall be permitted flexibility in meeting the objectives set by the standards. Where the term "adequate" or the phrase "as approved by the enforcement agency" is used, the operator will propose a method, physical improvement, or other appropriate means to comply with a standard. The enforcement agency may thereupon accept, modify, reject, or replace the operator's proposal, and shall incorporate the means of compliance into the operator's permit, if applicable and appropriate.

Section 17205. Health Related Standards.

These regulations contain both Health related standards and standards related to Solid Waste Management. The Health Standards are designated by the letter "H". When a Solid Waste Management Standard also is included in a Section, it is identified by the letters "SWM". In all other cases the standards are Solid Waste Management Standards.

Section 17206. Waivers. [Repealed]

Article 3. Emergency Waiver of Standards

Section 17210. Scope and Applicability

(a) This Article informs an operator, who holds a valid solid waste facilities permit, of the process for applying for an emergency waiver of standards (waiver) in the event of a state of emergency or local emergency. The waiver grants an operator temporary relief from specific standards imposed by this Division or specific terms or conditions of a solid waste facilities permit issued pursuant to this Division. This Article implements and makes specific those provisions of Section 43035 of the Public Resources Code relating to the integrated waste management disaster plan.

(b) This Article is not intended to limit the authority of the state or a local agency during a disaster or emergency.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40001, 40002, 40051, 40052, 40053, 40054, 40055, 40056, 40057, 43020 and 43021 of the Public Resources Code.*

Section 17210.1 Definitions

(a) "Agency" means the local agency responsible for compiling the disposal information from haulers and operators. The county is the agency, unless a region is given the responsibility as part of a regional agreement.

(b) "Board" means the California Integrated Waste Management Board.

(c) "Disaster" means a natural catastrophe such as an earthquake, fire, flood, landslide, or volcanic eruption, or, regardless of cause, any explosion, fire, or flood.

(d) "Disaster Debris" means nonhazardous solid waste caused by or directly related to a disaster.

(e) "Diversion" means the directing of solid waste from disposal or transformation by means of recycling, reuse, or composting.

(f) "Emergency Waiver of Standards" means the document signifying approval by an enforcement agency which allows an operator, who holds a valid solid waste facilities permit, the ability to deviate from specified state minimum solid waste standards or terms or conditions of a solid waste facilities permit issued pursuant to this Division. The waiver applies to the origin of waste; the rate of inflow for storage, transfer, or disposal of waste; the type and moisture content of solid waste; the hours of facility operation; and the storage time before transfer or disposal of wastes, at a solid waste facility. This includes the establishment of a locally-approved temporary transfer or processing site, if authorized by the enforcement agency.

(g) "Enforcement Agency" means the agency designated pursuant to the requirements set forth in Public Resources Code, Sections 43200 through 43221, or the Executive Director of the Board in the event that the enforcement agency (EA) is incapable of responding due to the nature of the emergency.

(h) "Extent Feasible" is evidenced by the use of maximum efforts to recycle, reuse, or otherwise divert from disposal as much of the debris and other nonhazardous waste received by the solid waste facility as possible, as determined by the operator.

(i) "Jurisdiction of Origin" means the incorporated city or the unincorporated area of the county where the waste originated.

(j) "Local Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the territorial limits of a county, city and county, or city, as described in Government Code Section 8558(c), which conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of that political subdivision and require the combined forces of other political subdivisions to combat, as stated in the proclamation by the governing body of a county, city and county, or city, or by an official so designated by ordinance adopted by such governing body to issue such proclamation.

(k) "State of Emergency" means the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state, as described in Government Code Section 8558(b), which conditions, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city, and require the combined forces of a mutual aid region or regions to combat, as stated in a proclamation by the Governor.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.2 Purpose and Limitation of Emergency Waiver.

(a) An emergency waiver may only be issued when there has been a proclamation of a state of emergency or local emergency, as those terms are defined in this Article.

(b) An EA may approve and issue a waiver for the express purpose of enabling an operator of an existing permitted solid waste facility, a locally-approved temporary transfer or processing site, or a locally-approved temporary compostable material handling activity, to accept disaster debris and other nonhazardous wastes, in a manner not consistent with the terms and conditions of the relevant solid waste facilities permit or applicable state minimum standards, during the recovery phase of a state of emergency or local emergency.

(c) The waiver may apply to specified state minimum solid waste standards or a specific term or condition of a solid waste facilities permit at an existing solid waste facility, a locally-approved temporary transfer or processing site, or a locally-approved temporary compostable material handling activity, which are related to the following: the origin of waste; the rate of inflow for storage, transfer, processing, or disposal of waste; the type and moisture content of solid waste; the hours of facility operation; and the storage time before transfer, processing, or disposal of nonhazardous waste.

(d) The effective period of an initial waiver, once granted by the EA, shall not exceed 120 days. Upon receipt of the reports required in Section 17210.5, the EA may extend the effective period of a waiver, as necessary, to assist in the recovery from an emergency.

(e) All other state minimum standards and permit conditions which are not the subject of the waiver shall remain in effect.

(f) A waiver may be modified, canceled, or revoked by the EA without advance notice should the EA determine that any of the following occurs:

(1) The use of such a waiver will cause or contribute to a public health and safety or environmental problem;

(2) The terms of the waiver are not being used expressly to handle the state of emergency or local emergency and are not in the best interest of the public health and safety;

(3) The waiver is no longer necessary;

(4) The solid waste facility operator is not utilizing disaster debris diversion programs to the extent feasible.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 43002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.3 Request for an Emergency Waiver.

(a) An operator may apply to an EA for a waiver after a disaster or emergency situation as defined in this Article, has been declared. The waiver shall only be granted with the express approval of the EA following a proclamation of emergency or declaration of disaster at the local or state levels.

(b) To obtain a waiver, a solid waste facility operator shall submit a written request to the EA. The request for a waiver shall include, but not be limited to, the following information:

(1) A listing of the existing solid waste facilities permit terms and conditions to be waived in order to facilitate recovery and disposal of disaster debris in the event of a declared disaster or emergency;

(2) A statement of the remaining disposal capacity of the solid waste disposal facility at the time of the request;

(3) A description of all facility-related diversion programs and on-site recycling facilities; and

(4) A listing of locally-approved temporary transfer or processing sites to be used to store disaster debris for future reuse or recycling.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40001, 40002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.4 Granting an Emergency Waiver.

(a) The EA may grant a waiver during a proclamation of emergency upon making the following findings:

(1) If the waiver is for an existing permitted solid waste facility, the operator applying for the waiver holds a valid solid waste facilities permit;

(2) The waiver will not pose a threat to public health and safety or the environment;

(3) The operator identifies and implements, to the extent feasible, diversion programs to maximize diversion through reuse, recycling, or composting of disaster-related waste.

(b) Within 7 days of receipt of the solid waste facility operator's request for a waiver, the EA shall notify the solid waste facility operator in writing whether or not the request for waiver has been granted. If the proposed waiver is not granted, the EA's notification shall contain reasons for the denial. The solid waste facility operator may reapply for the waiver at a later date or submit necessary documentation to receive the waiver immediately.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021 and 43035, Public Resources Code.*

Section 17210.5 Reporting Requirements for a Solid Waste Facility Operator

(a) The solid waste facility operator shall submit a written report to the EA and the local county agency (agency) within 90 days of activation of the waiver and every 90 days thereafter for the effective period of the activated waiver.

(b) The written report shall include the following information:

(1) The daily amount of disaster debris received, diverted, and disposed at the facility;

(2) The jurisdiction of origin for the disaster debris received at the facility;

(3) The increase in tonnage or volume of waste received per day during the effective period of the activated waiver; and

(4) The facilities used to process the disaster debris.

(c) If pursuant to Section 17210.2(d) of this Article, the waiver is extended beyond 120 days, the operator shall submit a report, as described in subparagraph (b), to the EA and agency. The report shall be submitted once every 90 days until the end of the effective period of the waiver.

(d) After the activated waiver expires, the solid waste facility operator shall continue to submit the information requested in item (b) above to the EA and agency, every 90 days, until there is no longer any discernible disaster related waste being processed or stored at the facility.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.6 Reporting Requirements for an Enforcement Agency

(a) The EA shall transmit a copy of the approved waiver to the Board within 15 days of its issuance.

(b) The EA shall submit a copy of the operator's written reports to the Board within 30 days of the receipt of the reports.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.7 Selection of a Solid Waste Facility for Emergency Disposal and Diversion.

(a) In the event of a state of emergency or local emergency, the EA shall do the following:

(1) Assist the local government within its jurisdiction by providing a list of solid waste disposal facilities which have been granted a waiver. The list shall include site capacity for acceptance of waste, hours of operation, daily tonnage limits during the emergency, and on-site recycling and diversion for disaster-related debris.

(2) Survey the solid waste facilities within its jurisdiction and determine the diversion programs available at the facilities. Diversion information will be made available by the EA to an affected local jurisdiction and to the public during a declared emergency.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021, and 43035, Public Resources Code.*

Section 17210.8 Authority of an Enforcement Agency.

(a) An EA may approve waivers of minimum standards and specific terms or conditions of a solid waste facilities permit, as needed, to respond to a disaster or emergency situation, as defined in Section 17210.1.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40001, 40002, 40051, 40052, 40053, 40054, 40055, 40056, 40057, 43020, and 43021, Public Resources Code.*

Section 17210.9 Executive Director's Powers and Duties Relative to the Emergency Waiver.

(a) Once the waiver is issued, the Executive Director of the Board shall review all EA waiver approvals. The Executive Director may condition, limit, suspend, or terminate an operator's use of a waiver, if it is determined that use of the waiver would cause harm to public health and safety, or the environment.

(b) The Executive Director may condition, limit suspend, or terminate an operator's use of a waiver if it is found that the operator has not utilized reasonably available waste diversion programs as identified in its waiver documentation.

(c) The Executive Director shall report to the Board at a regularly scheduled meeting any granting of a waiver, and all determinations made concerning the waiver.

Authority cited: *Sections 40502 and 43035, Public Resources Code.*

Reference: *Sections 40002, 43020, 43021 and 43035, Public Resources Code.*

Article 3.5. Temporary Waiver of Terms.

Section 17211. Scope and Applicability

(a) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (the Act), commencing with Section 40000 of the Public Resources Code, as amended. These Regulations should be read together with the Act.

(b) The purpose of this Article is to provide a means for an enforcement agency (EA) to authorize a temporary waiver from specific terms and conditions of a solid waste facilities permit for a limited period during a temporary emergency as defined in Section 17211.1(b). This Article does not authorize relief from requirements of State Minimum Standards, set out in Title 14, California Code of Regulations, Chapter 3, or other standard or requirement adopted by the Board.

(c) Pursuant to this Article, an Enforcement Agency (EA) may issue a stipulated agreement defined in Section 17211.1(a) that provides a temporary waiver of specific terms and conditions of a solid waste facilities permit during a temporary emergency.

(d) This Article informs an operator, who holds a valid solid waste facilities permit, of the process for requesting a stipulated agreement in the event of an temporary emergency.

(e) This Article is not intended to limit the authority of the state or a local agency, including the EA or the Board to enforce the terms and conditions of a solid waste facilities permit that are not subject to the stipulated agreement, State Minimum Standards, and provisions of the Act.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.1. Definitions

In addition to the definitions set forth in Section 17210.1 of Article 3, of this Chapter, the following definitions apply to this Article 3.5:

(a) "Stipulated agreement" means an enforceable document written by the EA, pursuant to Division 30, Public Resources Code, Section 45011(a), that provides a temporary waiver of specified terms and conditions of a solid waste facilities permit issued to an operator pursuant to this Division. The stipulated agreement is subject to appeal through the appeal process set out in Division 30, Public Resources Code, Parts 5 and 6.

(b) "Temporary emergency" means a temporary, unforeseeable circumstance, which results in a situation where it is necessary, in order to protect the public health and safety or the environment as determined by the EA, to waive specified terms and conditions of a solid waste facilities permit. "Temporary emergency" does not include competitive market changes or a failure on the part of the operator, the EA or a local government agency to plan for reasonably foreseeable future events. Further, because they are not unforeseeable, circumstances resulting from a labor controversy arising from issues at one or more solid waste facilities are not a "temporary emergency" with respect to the facility or facilities at which the labor controversy occurs.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a) and Division 30, Parts 5 and 6, Public Resources Code.*

Section 17211.2. Purpose and Limitation of a Stipulated Agreement

- (a) A stipulated agreement may only be used in the event of a temporary emergency.
- (b) A stipulated agreement may only be used when the EA and operator agree that the circumstance contributing to the temporary emergency was unforeseeable.
- (c) An EA may use a stipulated agreement for the express purpose of enabling an operator of an existing permitted solid waste facility to operate in a manner not consistent with the terms and conditions of the solid waste facilities permit.
- (d) The operator must comply with the terms and conditions of the solid waste facilities permit until such time as a stipulated agreement is provided by the EA.
- (e) The term of the stipulated agreement once granted by the EA, shall not exceed 90 days. The EA may grant one or more extensions of 90 days or less as allowed in Section 17211.6.
- (f) All permit terms and conditions, which are not the subject of the stipulated agreement, shall remain in effect.
- (g) A stipulated agreement may be modified; cancelled, or revoked by the EA without advance notice should the EA determine that any of the following occurs:
 - (1) The use of the stipulated agreement causes or contributes to, or threatens to cause or contribute to, harm to the public health and safety or the environment;
 - (2) The terms of the stipulated agreement are not being used expressly to handle a temporary emergency and are not in the best interest of the public health and safety or the environment;
 - (3) The solid waste facilities permit has been revised to include terms and conditions that address the temporary emergency.
 - (4) The temporary emergency no longer exists (so the stipulated agreement is no longer necessary).
- (h) A stipulated agreement shall be cancelled or revoked by the EA without advance notice should the EA determine that the operator is not in compliance with the time frames and requirements included in the stipulated agreement under Section 17211.5 (c) and (d).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.3. Request for a Temporary Stipulated Agreement

- (a) An operator may make a request to an EA for a stipulated agreement.

(b) To obtain a stipulated agreement, the operator shall submit a written request to the EA. The request for the stipulated agreement shall include the following information:

- (1) A description of the temporary emergency, including a description of how the circumstance was unforeseeable, which justifies a waiver.
- (2) The specific changes in operation or design at the facility required to address the temporary emergency.
- (3) The specific terms and conditions of the facility's existing solid waste facilities permit from which the operator is requesting a waiver.
- (4) A requested date to begin implementation of the stipulated agreement.
- (5) Actions the operator will take so the stipulated agreement is no longer needed including milestones and associated timelines with specific dates.
- (6) Evidence acceptable to the EA that the operation of the facility under a stipulated agreement is compliant with all applicable land use entitlements, all other permits affecting the facility, all applicable federal, state, and local laws and regulations, and the California Environmental Quality Act.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.4. Issuing a Stipulated Agreement

(a) The EA may issue a stipulated agreement upon making the following determinations:

- (1) A temporary emergency exists.
- (2) The operator requesting a stipulated agreement holds a valid solid waste facilities permit for the facility.
- (3) The operator is in compliance and has demonstrated good faith in maintaining compliance with state minimum standards and the terms and conditions of the existing solid waste facilities permit.
- (4) It is necessary to waive specified terms and conditions of a solid waste facilities permit in order to protect the public health and safety or the environment.
- (5) Operation under the stipulated agreement will not pose a threat to public health and safety or the environment.
- (6) Any restrictions, conditions, or terms contained in the stipulated agreement have been agreed upon by the EA and the operator.
- (7) A stipulated agreement may not be used for a recurring temporary emergency

addressed by a previous stipulated agreement.

(b) Within 5 working days of receipt of the operator's request for a stipulated agreement, the EA shall notify the operator in writing whether or not the request for a stipulated agreement has been granted. If the proposed stipulated agreement is not granted, the EA's notification shall contain reasons for the denial. The solid waste facility operator may again request the stipulated agreement at a later date or submit necessary documentation to receive the stipulated agreement.

(c) If a stipulated agreement is not requested or a request is denied, the EA may address the changes required to address the temporary emergency through the processes and mechanisms included in Chapter 5, Article 4.

(d) In the event the Executive Director conditions, limits, suspends, or terminates an operator's use of a stipulated agreement pursuant to Section 17211.9(a), the EA shall not find that an operator has violated any of the specific terms and conditions waived by the stipulated agreement for a violation occurring during the period between the EA's written approval of the stipulated agreement and the effective date of the Executive Director's action under Section 17211.9(a) when the Executive Director's action has the effect of setting aside or limiting the waiver of any such specific terms and conditions.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.5. Contents of a Stipulated Agreement

Contents of a stipulated agreement are as follows, but not limited to:

(a) Specific terms and conditions of the solid waste facilities permit that are subject to the stipulated agreement.

(b) Justification for providing the stipulated agreement, including evidence supporting the finding made by the EA.

(c) The specific changes in operation or design at the facility required to address the temporary emergency.

(d) Term of the stipulated agreement, including commencement date, termination date and whether request for one or more extensions will be entertained under appropriate and specified circumstances.

(e) Actions the operator will take including milestones and associated timelines with specific dates to revise its solid waste facilities permit or to modify its operations so that the facility will no longer need the stipulated agreement.

(f) Actions the EA will take if applicable to assist the operator to revise its solid waste facilities permit or to modify its operations or design so that the facility will no longer require the stipulated agreement.

(g) Evidence demonstrated through the signatures of both the operator and the EA, that the operator and EA have agreed to the requirements set out in the stipulated agreement.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.6. Reporting Requirements for a Solid Waste Facility Operator

(a) The solid waste facility operator shall submit a written report to the EA within 10 days prior to the termination date of the stipulated agreement.

(b) The written report shall include:

(1) Information regarding changes in operation or design that took place as a result of the stipulated agreement.

(2) Description of steps taken to find a longer term and/or permanent solution to address the unforeseeable circumstance.

(3) Either a request to discontinue the stipulated agreement on a date certain, or a request to continue the stipulated agreement for another 90 days.

(c) If the stipulated agreement is extended beyond the initial 90 days, the operator shall submit a subsequent report, as described in subparagraph (b), to the EA. The report shall be submitted 10 days prior to the termination date of each extension of the stipulated agreement.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.7. Reporting Requirements for an Enforcement Agency

(a) The EA shall transmit a copy of the stipulated agreement request and stipulated agreement to the Board within 5 working days of it being granted.

(1) The transmitted stipulated agreement will be accompanied by supporting written documentation of the information by which the LEA made the determinations required in Section 17211.4(a).

(b) The EA shall transmit a copy of the stipulated agreement request and verification of denial to the Board within 5 working days of the stipulated agreement denial.

(1) The transmitted stipulated agreement will be accompanied by supporting written documentation of the information by which the LEA made the determinations required in Section 17211.4(b).

(c) The EA shall transmit a copy of verification of an extension of a stipulated agreement to the Board within 5 working days of it being granted.

(d) The EA shall submit a copy of the operator's written reports to the Board within 5 working days of the receipt of the reports.

(e) The EA shall provide an oral report to the Board during the next regularly scheduled meeting after an extension of a stipulated agreement.

(f) Within 24 hours following the EA's issuance of a stipulated agreement, the EA shall submit a notice for publication in a daily newspaper of general circulation in the community in which the solid waste facility is located and shall submit a notice to the Board to be posted on the Board's web page.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.8. Authority of an Enforcement Agency

(a) An EA may approve a waiver through a stipulated agreement addressing specific terms or conditions of a solid waste facilities permit, as needed, to respond to a temporary emergency, as defined in Section 17211.1.

(b) For reasons noted in Section 17211.2(g) the EA may cancel or revoke a stipulated agreement and choose to address the situation through mechanisms found in Chapter 5, Article 4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Section 17211.9. Board Review of Stipulated Agreements

(a) Once a stipulated agreement is issued and the EA has provided a copy to the Board pursuant to Section 17211.7(a), the Executive Director of the Board shall review all EA approvals. The Executive Director may, after consulting with the EA, condition, limit, suspend, or terminate an operator's use of a stipulated agreement if he or she finds that implementation of the agreement as issued is not consistent with Section 17211.4 or may adversely affect public health and safety, or the environment.

(b) The Executive Director shall report to the Board at the next regularly scheduled meeting any issuance of a stipulated agreement, denial of a stipulated agreement, extension of a stipulated agreement, or any other action taken by an EA pursuant to this Article and shall report any action taken by the Executive Director to condition, limit, suspend or terminate a stipulated agreement, including the basis on which the Executive Director to such action.

(c) The Executive Director may delegate his or her duties under this Section to any employee of the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 45011(a), Public Resources Code.*

Article 4. Definitions

Section 17225. General.

(a) Unless the context requires another construction, the definitions set forth in this Article and in Division 30 of the Public Resources Code shall govern the construction of this Chapter. No definitions which are present in Division 30 of the Public Resources Code are repeated herein. Consequently, those definitions should be read in conjunction with the ones set forth herein.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 40000, 40001, 40002, Public Resources Code.

Section 17225.1. Abandoned Vehicles.

"Abandoned Vehicles" include vehicles, with or without motor power, including cars, trucks, trailers, mobile-homes, buses, etc., left on public or private property for an extended period of time and usually in an inoperable or hazardous condition.

Section 17225.2. Active Face. [Repealed]

Section 17225.3. Agricultural Solid Wastes.

"Agricultural Solid Wastes" include wastes resulting from the production and processing of farm or agricultural products, including manures, pruning and crop residues wherever produced.

Section 17225.4. Approval Agency.

"Approval Agency" includes any agency with regulatory powers regarding solid waste generation, collection, transportation, processing or disposal and includes, but is not limited to the Board, the Department, California Regional Water Quality Control Boards, local air pollution control districts, local enforcement agencies, local health entities and local land use authorities.

Section 17225.5. Ashes.

Ashes includes the residue from the combustion of any solid or liquid materials.

Section 17225.6. Baling.

"Baling" includes the process of compressing and binding solid wastes.

Section 17225.7. Board. [Repealed]

Section 17225.8. Bulky Waste.

"Bulky Waste" includes large items of solid waste such as appliances, furniture, large auto parts, trees, branches, stumps and other oversize wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

Section 17225.9. Cell. [Repealed]

Section 17225.10. Collection.

"Collection" means the act of collecting solid waste at the place of waste generation by an approved collection agent (public or private) and is distinguished from "removal".

Section 17225.11. Combustible Refuse.

"Combustible Refuse" means any burnable refuse.

Section 17225.12. Commercial Solid Wastes.

"Commercial Solid Wastes" include all types of solid wastes generated by stores, offices and other commercial sources, excluding residences, and excluding industrial wastes.

Section 17225.13. Collection Vehicle or Equipment.

"Collection Vehicle or Equipment" includes any vehicle or equipment used in the collection of residential refuse or commercial solid wastes.

Section 17225.14. Composting.

"Composting" includes a controlled microbial degradation of organic wastes yielding a safe and nuisance free product.

Section 17225.15. Construction and Demolition Wastes.

"Construction and Demolition Wastes" include the waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

Section 17225.16. Cover Material. [Repealed]

Section 17225.17. Daily Cover. [Repealed]

Section 17225.18. Dead Animals.

"Dead Animals" include those animals whose carcasses require disposal.

Section 17225.19. Decomposition Gases. [Repealed]

Section 17225.20. Department. [Repealed]

Section 17225.21. Disposal Area.

"Disposal Area" means that portion of a disposal site which has received or is receiving solid wastes.

Section 17225.22. Disposal Site or Site. [Repealed]

Section 17225.23. Disposal Site Owner. [Repealed]

Section 17225.24. Dump. [Repealed]

Section 17225.25. EA.

"EA" means enforcement agency as defined in PRC Section 40130.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 40000, 40001, 40002, Public Resources Code; Title 40, Code of Federal Regulations, Section 258.2.

Section 17225.26. Fill. [Repealed]

Section 17225.27. Final Cover. [Repealed]

Section 17225.28. Final Site Face. [Repealed]

Section 17225.29. Flue.

"Flue" includes any duct or passage for air, gases, or the like, such as a stack or chimney.

Section 17225.30. Garbage.

"Garbage" includes all kitchen and table food waste, and animal or vegetable waste that attends or results from the storage, preparation, cooking or handling of food stuffs.

Section 17225.31. Groups of Wastes. [Repealed.]

Section 17225.32. Hazardous Wastes.

"Hazardous Wastes" include any waste material or mixture of wastes which is toxic, corrosive, flammable, an irritant, a strong sensitizer, which generates pressure through decomposition, heat or other means, if such a waste or Mixture of wastes may cause substantial personal injury, serious illness or harm to humans, domestic animals, or wildlife, during, or as an approximate result of any disposal of such wastes or mixture of wastes as defined in Article 2, Chapter 6.5, Section 25117 of the Health and Safety Code. The terms "toxic", "corrosive", "flammable", "irritant", and "strong sensitizer" shall be given the same meaning as in the California Hazardous Substances Act (Chapter 13 commencing with Section 28740 of Division 21 of the Health and Safety Code).

Section 17225.33. Incinerator.

"Incinerator" includes any equipment used for the volume reduction or destruction of combustible wastes by burning, from which the exhaust gases pass through a flue.

Section 17225.34. Incinerator Residue.

"Incinerator Residue" includes the solid materials remaining after reduction in an

incinerator.

Section 17225.35. Industrial Wastes.

"Industrial Wastes" include all types of solid wastes and semi-solid wastes which result from industrial processes and manufacturing operations.

Section 17225.36. Infectious Wastes.

"Infectious Wastes" include:

(a) Equipment, instruments, utensils and other fomites of a disposable nature from the rooms of patients who are suspected to have or have been diagnosed as having a communicable disease and must, therefore, be isolated as required by public health agencies;

(b) laboratory wastes, including pathological specimens (i.e., all tissues, specimens of blood elements, excreta and secretions obtained from patients or laboratory animals) and disposable fomites (any substance that may harbor or transmit pathogenic organisms) attendant thereto;

(c) surgical operating room pathologic specimens including recognizable anatomical parts, human tissue, and disposable materials from hospitals, clinics, outpatient areas and emergency rooms, as is also defined in Section 314(d) of the California Administrative Code, Title 17.

Section 17225.37. Institutional Solid Wastes.

"Institutional Solid Wastes" include solid wastes originating from educational, health care, correctional, research facilities or other similar facilities.

Section 17225.38. Intermediate Cover. [Repealed.]

Section 17225.39. Landfill. [Repealed.]

Section 17225.40. Leachate. [Repealed]

Section 17225.41. Liquid Wastes.

"Liquid Wastes" means waste materials which are not spreadable.

Section 17225.42. Litter.

"Litter" means all improperly discarded waste material, including, but not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state, but not including the properly discarded waste of the primary processing of agriculture, mining, logging, sawmilling, or manufacturing.

Section 17225.43. Local Government.

"Local Government" is a local public entity which is a county, city, district, or any other special political subdivision, but is not the State.

Section 17225.44. Non-Combustible Refuse.

"Non-Combustible Refuse" includes miscellaneous refuse materials that are unburnable at ordinary incinerator temperatures (1300 to 2000 degrees F).

Section 17225.45. Nuisance.

"Nuisance" includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community or neighborhood or any considerable number of persons although the extent of annoyance or damage inflicted upon the individual may be unequal and which occurs as a result of the storage, removal, transport, processing or disposal of solid waste.

Section 17225.46. Open Burning. [Repealed]

Section 17225.47. Operating Area. [Repealed]

Section 17225.48. Operator. [Repealed]

Section 17225.49. Person. [Repealed]

Section 17225.50. Premises.

"Premises" includes a tract or parcel of land with or without habitable buildings or appurtenant structures.

Section 17225.51. Processing. [Repealed]

Section 17225.52. Putrescible Wastes.

"Putrescible Wastes" include wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, gases or other offensive conditions, and include materials such as food wastes, offal and dead animals.

Section 17225.53. Refuse.

"Refuse" includes garbage and rubbish.

Section 17225.54. Recycling. [Repealed]

Section 17225.55. Removal.

"Removal" means the act of taking solid wastes from the place of waste generation either by an approved collection agent or by a person in control of the premises.

Section 17225.56. Removal Frequency.

"Removal Frequency" means frequency of removal of solid wastes from the place of waste generation either by an approved collection agency or by the owner of the waste.

Section 17225.57. Residential Refuse.

"Residential Refuse" includes all types of domestic garbage and rubbish which originate in residential dwellings.

Section 17225.58. Resource Recovery.

"Resource Recovery" means the reclamation or salvage of wastes for reuse, conversion to energy or recycling.

Section 17225.59. Rubbish.

"Rubbish" includes non-putrescible solid wastes such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, plastics, rubber by-products or litter.

Section 17225.60. Runoff. [Repealed]**Section 17225.61. Salvaging.**

"Salvaging" means the controlled removal of waste material for utilization.

Section 17225.62. Sanitary Landfill. [Repealed]**Section 17225.63. Scavenging.**

"Scavenging" means the uncontrolled and/or unauthorized removal of solid waste materials.

Section 17225.64. Septic Tank Pumpings.

"Septic Tank Pumpings" include sludge and wastewater removed from septic tanks.

Section 17225.65. Sewage Sludge.

"Sewage Sludge" includes any residue, excluding grit or screenings, removed from a waste water, whether in a dry, semidry or liquid form.

Section 17225.66. Shredding.

"Shredding" includes a process of reducing the particle size of solid wastes through use of grinding, shredding, milling or rasping machines.

Section 17225.67. Sludge.

"Sludge" includes the accumulated solids and/or semisolids deposited from wastewaters or other fluids.

Section 17225.68. Small Volume Transfer Station. [Repealed]

Section 17225.69. Solid Wastes of Wastes. [Repealed]

Section 17225.70. Solid Waste Management.

"Solid Waste Management" includes a planned program for effectively controlling the generation, storage, collection, transportation, processing and reuse, conversion or disposal of solid wastes in a safe, sanitary, aesthetically acceptable, environmentally sound and economical manner. It includes all administrative, financial, environmental, legal and planning functions as well as the operational aspects of solid waste handling, disposal and resource recovery systems necessary to achieve established objectives.

Section 17225.71. Street Refuse.

"Street Refuse" includes materials picked up by manual or mechanical sweeping of alleys, streets or sidewalks, litter from public litter receptacles and material removed from catch basins.

Section 17225.72. Transfer/Processing Station or Station. [Repealed]

Section 17225.73. Vector.

"Vector" includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease, or disrupting the normal enjoyment of life by adversely affecting the public health and well being.

Section 17225.74. Written Approval. [Repealed]

Article 4.1. Waste Tire Program Definitions

Section 17225.701. Altered Waste Tire. [Repealed]

Section 17225.705. Store. [Repealed]

Section 17225.710. Applicant.

"Applicant" means any person seeking a permit to operate a waste tire facility.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42820, 42822, 42833, 42830, and 43020, Public Resources Code.

Section 17225.715. Baled Tires.

"Baled Tires" means either whole or altered waste tires that have been compressed and then secured with a binding material for the purpose of reducing their volume. Baled tires are waste tires as defined in PRC Section 42801.6, until fully enclosed or encapsulated in an engineered construction project for which all required local, state, and/or federal government approvals have been obtained. "Baling" in reference to waste tires means action which produces baled tires.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42801.6, 42820, 42833, 42830, and 43020, Public Resources Code.

Section 17225.717. Collection. [Repealed]

Section 17225.720. Crumb Rubber.

Crumb rubber means rubber granules derived from waste tires that are less than or equal to one-quarter (1/4) inch (6mm) in size. "Crumbing" in reference to waste tires means action which produces crumb rubber.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42801.7, 42820, 42830, and 43020, Public Resources Code.

Section 17225.725. Design.

"Design" means the layout of a waste tire facility (including the numbers and types of fixed structures), total volumetric capacity of a waste tire facility or total throughput rate, vehicular traffic flow and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42812, 42820, 42830, and 43020, Public Resources Code.

Section 17225.735. Waste Tire. [Repealed]

Section 17225.750. Operation.

"Operation" means the procedures, personnel, and equipment used to receive, store, process, or dispose of waste tires.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42812, 42820, 42830, and 43020, Public Resources Code.

Section 17225.755. Operator.

"Operator" means the person legally responsible for the operation of a waste tire facility or the owner if there is no operator.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42804, 42820, 42830, and 43020, Public Resources Code.

Section 17225.760. Owner.

"Owner" means a person who owns, in whole or in part, a waste tire facility, the waste tires located at a facility, or the land on which a waste tire facility is located.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.

Reference: Sections 42800, 42805, 42820, 42830, and 43020, Public Resources Code.

Section 17225.770. Passenger Tire Equivalents (PTE).

"Passenger Tire Equivalents" means the total weight of altered waste tires, in pounds divided by 20 pounds. This definition replaces the previous definition of "Tire Equivalents."

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42808, 42821(c), 42831, 42820, 42830, and 43020, Public Resources Code.

Section 17225.795. Store.

"Store" means to reserve tires for future use, processing, recycling, or offsite disposal.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42822, 42808, 42820, 42830, and 43020, Public Resources Code.

Section 17225.800. Substantial Change.

For the purpose of PRC Section 42812, "Substantial Change" means any change that may cause a significant effect on the environment. Significant effect on the environment shall have the same meaning as provided in the State California Environmental Quality Act (CEQA) Guidelines. The determination of significant effect shall be made in accordance with Section 15064 if the State CEQA Guidelines (Title 14 of the California Code of Regulations).

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42812, 42820, 42830, and 43020, Public Resources Code and Sections 15002, 15064 and 15382, State CEQA Guidelines, Title 14, CCR.

Section 17225.820. Used Tire Dealer.

"Used Tire Dealer" means a business, operating under the terms and conditions of a local use permit, business license or other required local approval, which is storing used tires in accordance with PRC Section 42806.5, and for which its primary purpose is to sell used tires for profit.

Authority cited: Sections 40502, 42820, 42830, and 43020, Public Resources Code.
Reference: Sections 42800, 42806.5, 42820, 42830, and 43020, Public Resources Code.

Section 17225.821. Indoor or Indoors.

"Indoor or Indoors" means an accumulation of waste tires or waste tire equivalents within any structure used or intended for supporting or sheltering any use of occupancy.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: Sections 42800, 42808, 42820, 42822, 42830 and 43020, Public Resources Code.

Section 17225.822. Exempt or Excluded.

"Exempt or Excluded" means a waste tire facility storing a total of 500 or more waste tires, as authorized by Public Resources Code Sections 42823.5(a) or 42831, or as specified in Section 18420(a) of Title 14 of the California Code of Regulations, or meets the requirements set forth in Section 18420.1 or 18431.3 of Title 14 of the California Code of Regulations. An exempt or excluded waste tire facility is not required to obtain a waste tire facility permit.

Authority cited: Section 40502, 42820, 42830 and 43020, *Public Resources Code*.
Reference: Sections 42800, 42808, 42820, 42822, 42830 and 43020, *Public Resources Code*.

Section 17225.850. Waste Tire Facility.

"Waste Tire Facility" means a waste tire facility as that term is defined by Public Resources Code Section 42808 and includes exempt or excluded facilities, minor waste tire facilities, major waste tire facilities, and facilities where less than 500 waste tires are or will be stored, stockpiled, accumulated, or discarded; but does not include permitted solid waste facilities that receive for transfer or disposal less than 150 tires per day averaged over a 365-day period.

Authority cited: Section 40502, 42820, 42830 and 43020, *Public Resources Code*.
Reference: Sections 42800, 42808, 42820, 42822, 42830 and 43020, *Public Resources Code*.

Article 4.5. Implementation of Federal Municipal Solid Waste Landfill Minimum Standards. [Repealed]

Article 5. Solid Waste Storage and Removal Standards

General (SubArticle)

Section 17301. Applicability of Standards.

The standards in this Article shall apply to all facilities, equipment, or vehicles used for storage, removal, transport, and other handling of solid wastes.

Section 17302. Conformance with Plan.

After the effective date of the county solid waste management plan required by Section 66780 of the Government Code, solid waste storage and removal shall be in conformance with said plan.

Storage of Solid Wastes (SubArticle)

Section 17311. General.

The owner, operator and/or occupant of any premise, business establishment, industry, or other property, vacant or occupied, shall be responsible for the safe and sanitary storage of all solid waste accumulated on the property.

Section 17312. Storage.

In all cases in which garbage and rubbish are combined, the standards for garbage shall prevail. The property owner or occupant shall store solid waste on his premises or property or shall require it to be stored or handled in such a manner so as not to promote the propagation, harborage, or attraction of vectors, or the creation of nuisances.

Section 17313. Design Requirements.

The design of any new, substantially remodeled or expanded building or other facility shall provide for proper storage or handling which will accommodate the solid waste loading anticipated and which will allow for efficient and safe waste removal or collection. The design shall demonstrate to local land use and building permit issuing authorities that it includes the required provisions.

Section 17314. Operator Responsibility.

Where the collection operator furnishes storage containers, he is responsible for maintaining the containers in good condition (ordinary wear and tear excepted) unless they are furnished under other terms, conditions, or agreements. He shall plan with the property owner and/or occupant as to placement of storage containers to minimize traffic, aesthetic and other problems both on the property and for the general public.

Section 17315. Garbage Containers.

Property owners and tenants shall deposit all garbage and putrescible matter or mixed garbage and rubbish in containers which are either non-absorbent, water-tight, vector-resistant, durable, easily cleanable, and designed for safe handling, or in paper or plastic bags having sufficient strength and water tightness and which are designed for the containment of refuse. Containers for garbage and rubbish should be of an adequate size and in sufficient numbers to contain without overflowing, all the refuse that a household or other establishment generates within the designated removal period. Containers when filled shall not exceed reasonable lifting weights for an average physically fit individual except where mechanical loading systems are used. Containers shall be maintained in a clean, sound condition free from putrescible residue.

Section 17316. Identification of Containers.

Containers of one cubic yard or more owned by the collection service operator shall be identified with the name and telephone number of the agent servicing the container.

Solid Waste Removal and Collection (SubArticle)

Section 17317. Use of Container.

No person shall tamper with, modify, remove from, or deposit solid wastes in any container which has not been provided for his use, without the permission of the container owner.

Section 17331. Frequency of Refuse Removal.

The owner or tenant of any premises, business establishment or industry shall be responsible for the satisfactory removal of all refuse accumulated by him on his property or his premises. To prevent propagation, harborage, or attraction of flies, rodents or other vectors and the creation of nuisances, refuse, except for inert materials, shall not be allowed to remain on the premises for more than seven days, except when:

(a) disruptions due to strikes occur, or

(b) severe weather conditions or "Acts of God" make collection impossible using normal collection equipment, or

(c) official holidays interrupt the normal seven day collection cycle in which case collection may be postponed until the next working day. Where it is deemed necessary by the local health officer because of the propagation of vectors and for the protection of public health, more frequent removal of refuse shall be required.

Section 17332. Regulation of Operators.

Each person providing residential, commercial, or industrial solid waste collection services shall comply with all local government licenses, permits or written approval requirements applicable to the city or county in which such services are provided. Such written approval shall be contingent upon the operator's demonstrated capability to comply with these standards and use of equipment which is safe and sanitary. Each enforcement agency of solid waste collection shall maintain a complete listing of all persons holding written approvals to provide solid waste collection services within its jurisdiction. The listings shall contain the name, office, address, telephone number and emergency telephone number if different of each such person, the number and types of vehicles employed by such person in providing such solid waste collection services, and the types of materials authorized for handling.

Section 17333. Operator Qualifications.

When a city, county or special district authorizes or designates a person or firm to provide solid waste collection services within the territory under its jurisdiction through contract, franchise, permit, or license the local government shall obtain proof that such person or firm has adequate financial resources and experience to properly conduct the operation authorized. The facts needed to establish proof shall include but not be limited to the following:

(a) The filing of a performance bond or equivalent security with the local government in a reasonable amount, together with

(b) Evidence submitted to the local government and to the enforcement agency that the person or firm has experience sufficient to meet the needs of the situation within the jurisdiction.

Collection and Transportation Equipment (SubArticle)

Section 17334. Ownership of Waste Materials.

Solid wastes subject to collection by a collection service operator shall become the property of the collection service operator subject to local ordinances or contract conditions after such time as the authorized collector takes possession of the wastes.

Section 17341. Equipment Construction.

All equipment used for the collection and/or transportation of solid waste shall be durable, easily cleanable and designed for safe handling, and constructed to prevent loss of wastes from the equipment during collection or transportation. If such equipment is used to collect or transport garbage, other wet or liquid producing wastes, or wastes composed of fine particles, such equipment shall in all cases be non-absorbent and leak resistant. All equipment shall be maintained in good condition and cleaned in a frequency and in a manner so as to prevent the propagation or attraction of flies, rodents, or other vectors and the creation of nuisances.

Section 17342. Equipment Safety.

Vehicles and equipment used in the transport of garbage and rubbish shall be constructed and maintained in such a manner as to minimize the health and safety hazards to collection personnel and the public.

Section 17343. Equipment Parking.

A refuse collection service operator must designate an off-street location where all refuse collection vehicles will be parked when not in service, except in an emergency.

Section 17344. Identification of Operator.

Each vehicle used for the collection and transport of refuse shall be clearly marked with the name of the agency or firm operating the vehicle.

Section 17345. Inspection of Equipment.

Equipment used for solid waste collection shall be made available for inspection as requested by the appropriate Enforcement Agency.

Article 5.4. Waste Tire Monofill Regulatory Requirements

Section 17346. Authority and Scope.

(a) This Article sets forth permitting requirements and minimum operating standards for facilities that operate a waste tire monofill as defined in Section 17346.1 of this Article.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (the Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) Nothing in this Article limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict cities or counties from promulgating laws which are at least as strict as the regulations contained in this Article. However, no city or county may promulgate laws which are inconsistent with the provisions of this Article.

(d) Nothing in this Article shall be construed as relieving any owner or operator from obtaining all required permits, licenses, or other clearances complying with all orders, laws, regulations, or other requirements of other regulatory or enforcement agencies, including, but not limited to, local health agencies, the Regional Water Quality Control Board, the Department of Toxic Substances Control, air quality management district or air pollution control district, local land use authorities, and fire authorities.

(e) These regulations are intended to provide a sufficient level of information and oversight to ensure that the disposal of waste tires will be conducted in a manner which meets the purposes of the Act, as specified in Public Resources Code Section 40052, while protecting the public health, safety and the environment.

(f) For the purposes of this Article and Article 5.5 of this Chapter, disposal and storage of waste tires does not include the beneficial reuse of waste tires as the Department may determine on a case-by-case basis. A project shall be considered a beneficial reuse of waste tires only if it is approved by the Department and meets the requirements set forth in Section 18431.3 of Title 14 of the California Code of Regulations.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 42808, 43020, 43021, Public Resources Code.*

Section 17346.1. Definitions

For the purposes of this Article:

Unless the context requires another construction, the definitions set forth in this Article and in Division 30 of the Public Resources Code shall govern the construction of this Article. Certain of the definitions in Division 30 are interpreted herein for the purposes of this Article. The definitions set forth in Title 14, California Code of Regulations, Division

7, Chapter 3, Article 4.1 do not apply to this Article 5.4.

(a) "Air District" means Air Pollution Control District or Air Quality Management District.

(b) "Altered Waste Tire" means a waste tire that has been baled, shredded, chopped or split apart. "Altered waste tire" does not mean crumb rubber.

(c) "Cell" means that portion of compacted waste tires in a waste tire monofill that is enclosed by cover material during a designated period.

(d) "Local Fire Control Authority" means the public agency responsible for fire prevention and fire suppression for the area where a waste tire monofill facility is located or is proposed to be located.

(e) "Operator" means the person responsible for the overall operation of a waste tire monofill facility or the owner if there is no operator.

(f) "Owner" means a person who owns, in whole or in part, a waste tire monofill facility, the waste tires located at a waste tire monofill facility, or the land on which a waste tire monofill facility is located.

(g) "Rubber fines" are small particles of ground rubber that result as a by-product of producing shredded rubber.

(h) "RWQCB" means the Regional Water Quality Control Board.

(i) "Uncontaminated Waste Tires" mean waste tires that are not hazardous waste, as defined in Title 22, California Code of Regulations Sections 66260.10 and 66261.3.

(j) "Waste Tire Monofill" means a discrete unit, as defined in Title 27, California Code of Regulations, Section 20164, for disposal of only uncontaminated waste tires together with cover.

(k) "Waste tire monofill facility" means a solid waste facility that has or will have one or more waste tire monofills and that may handle waste tires for the purposes of disposal to a waste tire monofill or mining for recovery of waste tires from a waste tire monofill.

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

Reference: *Sections 40052, 40160, 42801.5, 42804, 42805, 43020 and 43021, Public Resources Code.*

Section 17346.2. Regulatory Tier for Waste Tire Monofill Facilities.

(a) All Waste Tire Monofill Facilities shall obtain a Full Solid Waste Facilities Permit as set forth in Title 27, California Code of Regulations Sections 21563-21686, but excluding 21565.

(b) Except as expressly provided otherwise in this Article 5.4, all waste tire monofills shall comply with those provisions of the California Integrated Waste Management Act

of 1989 (the Act), commencing with Public Resources Code Section 40000, and regulations promulgated pursuant to the Act which apply to solid waste landfills.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 42808, 43021, 44002, Public Resources Code.*

Section 17346.3. Applicability of State Minimum Standards.

(a) Operating Criteria. All waste tire monofills shall comply with the operating criteria set forth in Title 27, California Code of Regulations, Division 2, Chapter 3, Subchapter 4, commencing with Section 20510, except for the following:

- (1) Section 20680. Daily Cover
- (2) Section 20690. Alternative Daily Cover
- (3) Section 20695. Cover Performance Standards
- (4) Section 20700. Intermediate Cover

(b) Additional Operating Requirements for Waste Tire Monofills. In addition to the requirements set forth in (a) above, all waste tire monofills shall adhere to the following waste tire monofill standards:

(1) Waste tire monofill facilities shall comply with Title 14, California Code of Regulations, Division 7, Chapter 3, Article 5.5 and with Title 14, California Code of Regulations, Division 7, Chapter 6, Article 8.5.

(2) Waste tires disposed in a waste tire monofill shall be altered waste tires or shall be otherwise permanently reduced in volume prior to disposal in a manner approved by the EA and the Board on a case-by-case basis. Waste tires disposed in a tire monofill shall also comply with the following specifications, unless alternative specifications are approved pursuant to subsection (b)(10):

(A) Tire pieces passing a 3 inch (76 mm) square mesh sieve shall be limited to a maximum of 50% by weight and tire pieces passing a 1.5 inch (38 mm) square mesh sieve shall be limited to a maximum of 25% by weight in the waste tire monofill to limit the potential for internal heating.

(B) The waste tire monofill shall contain less than 1% by weight of tire particles small enough to pass through a no. 4 (4.75 mm) sieve.

(C) The waste tire monofill shall contain no more than 5% altered tires having metal fragments that protrude more than 2 inches (51 mm) from the cut edges.

(D) Disposal of any material other than waste tires and cover is prohibited.

(E) Disposal of the remains of tires that have been subjected to fire shall be prohibited.

(F) Disposal of factory-reject tire carcasses that have been only partially vulcanized shall be prohibited.

(G) Disposal of rubber fines shall be restricted to a separate area of the monofill as a discrete cell that is isolated from altered waste tire fill cells and mixed completely with an equal volume of cover during the filling operations.

(H) In the top 12-inch layer of altered waste tires, a minimum of 90 percent (by weight) of the altered waste tires shall have a maximum dimension, measured in any direction, of 12 inches (305 mm) and 100 percent of the altered waste tires shall have a maximum dimension, measured in any direction, of 18 inches (457 mm).

(3) Representative samples of altered waste tires to be disposed in a waste tire monofill shall be collected and analyzed for gradation and protruding wire on a monthly basis, or less frequently if approved by the EA and the Board, to ensure compliance with subsections 17346.3(b)(2)(A), (B), and (C). Representative samples of cover to be disposed or utilized at a waste tire monofill shall be tested to ascertain compliance with the limitation on organic matter set forth in subsection 17346.3(b)(5) of this Article 5.4. Records of the results of these samples shall be maintained in the records required by Section 17346.4 of this Article 5.4.

(4) The last lift of altered waste tires disposed in a waste tire monofill shall be compacted to provide a flat and stable surface.

(5) Waste tire monofill cells shall not exceed a maximum depth of 20 feet (6 m), and a maximum cell area of 12,500 square feet (1161 square meters). A minimum distance of 2 feet shall be maintained between tire shreds in adjacent cells. Intermediate cover shall be placed to wholly encapsulate each monofill cell. Intermediate cover shall consist of soil with less than 5% organic matter as determined by a loss on ignition test (ASTM D 2974-00) and compacted to the maximum density obtainable at optimum moisture content, plus or minus 3 percent, to obtain a stable surface, using methods that are in accordance with accepted engineering practice.

(6) The active face of not more than two (2) cells shall be uncovered at any given time within a waste tire monofill facility.

(7) A minimum of 6 inches (152 mm) of cover shall be placed over the entire working face at the end of each operating day if: (A) the working face is to remain open and inactive for longer than 24 hours; or (B) when there is precipitation. The cover shall consist of the same material used as intermediate cover.

(8) If more than one waste tire monofill cell is stacked vertically, temperature sensors shall be installed within the underlying cells to monitor cell temperatures. The operator shall submit a plan that sets forth the location and frequency of sensor placement for approval by the EA and the CIWMB. In addition, a fire prevention plan shall be in place to address any zones, which experience sustained elevated temperatures to reduce temperatures to safe levels. Both plans shall be made part of the Fire Prevention, Control and Mitigation Plan, which is defined in Section 17346.5(b)(1). Records of these

results of elevated temperature shall be maintained in the records required by Section 17346.4 of this Article 5.4.

(9) An adequate stockpile of cover and equipment, as required and approved by the EA and the Board, shall be available in the event of fire to insure a cover of a minimum depth of 3 feet on all waste tires, crumb rubber and rubber fines at the waste tire monofill facility exposed to the atmosphere.

(10) The operator may propose to the EA and the Board alternative operating criteria to those specified in subsections 17346.3(b)(2) through (b)(9) together with information supporting the proposal. The EA and the Board may approve such alternative criteria only if the EA and the Board determine that the alternative criteria protect the public health and safety and the environment at least as effectively as the criteria specified in subsections 17346.3(b)(2) through (b)(9).

(11) Any mining or excavation of waste tires from a waste tire monofill shall be in accordance with a site-specific excavation and materials management plan approved by the EA and the Board.

(12) For the purposes of this Article, in addition to the requirements of Title 27, California Code of Regulations, Section 20610 (Training), site personnel shall be trained in fire safety, prevention and suppression.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020, 43021, Public Resources Code.*

Section 17346.4. Waste Tire Monofill Facility Records.

(a) In addition the requirements set forth in Title 27, California Code of Regulations, Section 20510, waste tire monofills shall record the following information and maintain it with other facility records:

(1) Results from temperature sensor monitoring required by this Article 5.4, subsection 17346.3(b)(8).

(2) Results from the sampling of altered waste tires as required by this Article 5.4, subsection 17346.3(b)(3)

(3) Results from load checking program as required by Title 27, California Code of Regulations, Section 20870.

(4) Waste Tire Hauler Manifests as required by Title 14, California Code of Regulations, Section 18459.3.

(5) Results from the loss of ignition test (ASTM D 2974-00) for cover as required by this Article 5.4, subsection 17346.3(b)(3).

(6) Any additional records required as part of the terms and conditions of the Full Solid

Waste Facilities Permit.

(b) Notwithstanding subsection 17346.4 (a), for purposes of this Article, the requirements of Title 27, California Code of Regulations, subsection 20515(a)(6)-(MSWLF Unit Records) shall not apply to waste tire monofills.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020, 43021, Public Resources Code.*

Section 17346.5. Report of Facility Information for Waste Tire Monofill Facilities.

(a) Each operator of a waste tire monofill facility must file with the EA a Report of Disposal Site Information (RDSI) as required in Title 27, California Code of Regulations, Sections 21590 & 21600.

(b) In addition to the RDSI requirements set forth in Title 27, California Code of Regulations, Sections 21590 and 21600, the RDSI shall include the following:

(1) A Fire Prevention, Control and Mitigation Plan which describes the measures the operator will take to: prevent tires from igniting, control and suppress the tire fire if it occurs, and mitigate the environmental impacts created by the tire fire at the waste tire monofill and by extinguishing the fire. The operator of a waste tire monofill facility shall specify the time frames under which any contaminated liquids generated as a result of any tire fire will be contained and removed and remedial actions will be implemented. Prior to Board concurrence in a permit, the time frames must be approved by the Board.

(2) Written evidence that the operator has submitted the Fire Prevention, Control and Mitigation Plan to the Local Fire Control Authority.

(3) Written evidence that the applicable Local Fire Control Authority has determined that the waste tire monofill facility, as described in the RDSI, complies with all fire prevention, fire suppression, and other requirements applicable to such facilities within the jurisdiction of the Local Fire Control Authority.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020, 43021, Public Resources Code.*

Section 17346.6. Design and Construction Standards.

(a) The waste tire monofill shall be constructed in accordance with design plans and specifications prepared, signed, and stamped by a civil engineer registered by the State of California, pursuant to Section 6762 of the Business and Professions Code.

(b) As specified in Section 17346.5 of this Article, operators of waste tire monofills shall prepare a Fire Prevention, Control and Mitigation Plan. As part of this plan, an emergency containment system that limits the flow of any contaminated liquids resulting from a fire in the tire monofill must be provided. The emergency containment system must contain any contaminated liquids resulting from a fire in the waste tire monofill and fire suppression for a period consistent with the implementation of the Fire Prevention,

Control and Mitigation Plan. The emergency containment system may be the existing natural geologic condition or may be constructed (utilizing clay or composite material together with a protective operations layer). The emergency containment system shall also include a collection system to remove any contaminated liquid that accumulates within the monofill in the event of a fire within or proximate to the tire monofill. The emergency containment system must be able to withstand breaching or rupture due to temperatures and other conditions that may result from a fire within the tire monofill and from activities undertaken to extinguish a fire within the tire monofill or to remediate any hazard or risk of hazard to the public health and safety or the environment due to a fire within the tire monofill.

(c) Waste tire monofills shall be designed and constructed to minimize water from entering or accumulating in fill areas, or ponding on cells. Storm water may be temporarily collected in lined dewatering sumps that are located on the cells. The design and construction of the tire monofill must allow for the removal of storm water and water that accumulates in the monofill as quickly as necessary to minimize the risk of fire within the monofill, as determined by the EA and the Board.

(d) The operator of a waste tire monofill shall implement a construction quality assurance (CQA) program to ensure compliance with the above requirements.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17346.7. Siting Criteria.

(a) Waste tire monofill facilities shall not be sited in an area subject to inundation or washout due to floods with a 100-year return period.

(b) Waste tire monofills shall meet seismic design criteria for Class III units as set forth in Title 27, California Code of Regulations, Section 20370.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020 and 43021, Public Resources Code.*

Section 17347. Closure and Postclosure Maintenance Criteria.

(a) All waste tire monofills shall comply with the requirements set forth in Title 27, California Code of Regulations, Division 2, Chapter 3, Subchapter 5, Article 2, commencing at Section 21090.

(b) Notwithstanding subsection 17347(a) above, the operator may propose to the EA and the Board alternative closure and postclosure maintenance criteria to those specified in subsection

(a), together with information supporting the proposal. The EA and the Board may approve such alternative criteria only if the EA and the Board determine that the alternative criteria protect the public health and safety and the environment at least as

effectively as the criteria specified in subsection 17347(a).

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020, 43021, 43102 and 43501, Public Resources Code.*

Section 17347.1. Closure and Postclosure Maintenance Plans.

All waste tire monofills shall comply with the requirements set forth in Title 27, California Code of Regulations, Chapter 4, Subchapter 4, commencing at Section 21769.

Authority cited: *Section 40502, 43020, 43021, Public Resources Code.*

Reference: *Sections 40052, 43020, 43021, 43103 and 43501, Public Resources Code.*

Section 17348. Corrective Action Criteria.

As part of the facility closure plan, the operator of a waste tire monofill shall establish corrective action procedures that include detecting, characterizing and responding to unpermitted discharges of solid waste to land, the detection of elevated subsurface temperatures and the mitigation of any fire at the facility. The corrective action procedures shall also include an estimated cost to initiate and complete the corrective action for all known and reasonably foreseeable releases from the waste tire monofill.

Authority cited: *Section 40502, 43020, 43021, and 40508, Public Resources Code.*

Reference: *Sections 40508 and 43103, Public Resources Code; and Section 258.73, Title 40, Code of Federal Regulations.*

Section 17349. Financial Assurances for Closure, Postclosure Maintenance, Corrective Action and Operating Liability.

All waste tire monofills shall comply with the requirements set forth in Title 27, California Code of Regulations, Division 2, Chapter 6 commencing at Section 22200.

Authority cited: *Section 40502, 40508, and 43509, Public Resources Code.*

Reference: *Sections 40508, 43040, 43103, 43500, 43601.5, 43602 and 43604, Public Resources Code; and Section 258.73, Title 40, Code of Federal Regulations.*

Article 5.5 Waste Tire Storage and Disposal Standards

Section 17350. Applicability.

(a) A waste tire facility, including a permitted facility and a facility excluded or exempt from permitting requirements, that stores a total of 500 or more waste tires, or a solid waste facility that stores a total of 500 or more waste tires, shall comply with the technical and operational requirements of Division 7, Chapter 3 Article 5.5 of Title 14 of the California Code of Regulations. Any tire in a pile or tires that cannot be verified by the Department or a representative of the Department, at the time of inspection, as meeting the requirements of Public Resources Code Section 42806.5 shall be counted as waste tires.

(1) Waste tires stored outdoors shall comply with the technical and operational standards set forth in Sections 17351 through 17354, and Sections 17357 through 17359 of this Article.

(2) Waste tires stored indoors shall comply with the technical and operational standards set forth in Sections 17351, 17352, 17353, and Sections 17356 through 17359 of this Article.

(b) Waste tires that are disposed of by burying at a solid waste disposal facility are addressed in Section 17355 of this Article.

(c) For purposes of determining the applicability of this Chapter, altered waste tires shall be counted as passenger tire equivalents as that term is defined in Section 17225.770 of this Chapter.

(d) The Department and/or the authorized representative of the Department for a jurisdiction in which a waste tire facility or solid waste facility is located may inspect any waste tire facility that is permitted, excluded, exempt, or otherwise authorized by the Department, statute or regulation. This inspection may be for compliance with applicable technical, operational and/or disposal standards, and waste tire facility permit terms and conditions.

(e) Nothing in this Article shall be construed as relieving any owner or operator from obtaining and operating under the terms and conditions of the California Fire Code, all use permits, business licenses, and other approvals required by applicable local fire code authorities and local governments.

(f) All waste tire facilities shall comply with recordkeeping requirements in Sections 17357 and 17358 of this Article.

Authority cited: *Section 40502, 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832, 43020, Public Resources Code.*

Section 17351. Fire Prevention Measures.

Pursuant to the California Fire Code, Title 24 of the California Code of Regulations, Sections 3201.1 through 3210.1, 3404.1 through 3408.2, which are hereby incorporated by reference, any person storing 500 or more waste tires shall meet the following requirements:

(a) The operator of the waste tire facility or solid waste facility shall demonstrate that they have prepared and submitted a fire safety plan to the fire code official having jurisdiction over a particular facility for review and approval. The fire safety plan shall include provisions for fire department vehicle access. At least one copy of the most recent, up-to-date fire safety plan and, if applicable, any approvals shall be made available at the time of inspection and at the time of application for a new permit, permit review or permit revision.

(b) Communication equipment shall be maintained at all waste tire facilities and solid waste facilities, if they are staffed by an attendant, to ensure that the site operator can contact local fire authority in the event of fire. The telephone number of the local fire authority and location of the nearest telephone shall be posted conspicuously in attended locations.

(c) Adequate equipment to aid in the control of fires shall be provided and maintained at the waste tire facility or solid waste facility at all times. At a minimum the following items shall be maintained on site and in working order at all times:

(1) Buildings or structures shall be equipped with portable fire extinguishers in accordance with Section 906 of the California Fire Code;

(2) One (1) pike pole or comparable pole at least 10 feet in length to separate burning from nonburning tires;

(3) One (1) round point and one (1) square point shovel;

(4) One (1) portable fire extinguisher with a minimum rating of A:40-B:C shall be carried on each piece of fuel-powered equipment used to handle waste tires;

(d) An adequate water supply shall be available for use by the local fire authority. The water supply shall be capable of delivering at least 1,000 gallons per minute for a duration of at least three hours and at least 2,000 gallons per minute for a duration of at least three hours if the sum of altered plus whole waste tires exceeds 10,000. The water supply shall be arranged such that any part of the storage yard can be reached by using not more than 500 feet of hose.

(e) The following precautions against fire shall be maintained at the waste tire facility or solid waste facility at all times:

(1) No open burning.

(2) Open flame, cutting, welding, or heating devices, blow torches, or highly flammable materials, including, but not limited to, inner tubes, are prohibited within 40 feet of waste tires.

(3) No smoking, except in designated areas.

(4) Tire storage piles shall not be located beneath electrical power lines having a voltage in excess of 750 volts or that supply power to fire emergency systems.

(f) All of the requirements of subsections (a) through (e) above shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property. This may include the availability of earth moving equipment or other approved means to control the tire fire. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall

be reported to the Department by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Department concurrence at the time of issuance or review of the permit.

Authority cited: *Sections 40502, 42820, 42821, 42830, 42832, and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17352. Facility Access and Security.

(a) Signs: For waste tire facilities and solid waste facilities open to the public a sign shall be posted at the facility entrance stating the name of the operator, operating hours, and site rules.

(b) Attendant: An attendant shall be present when the waste tire facility or solid waste facility is open for business if the facility receives tires from persons other than the operator of the facility.

(c) Access: An access road to the waste tire facility or solid waste facility shall be maintained passable for emergency equipment, fire apparatus, and vector control vehicles at all times. Unauthorized access shall be strictly controlled.

Authority cited: *Sections 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17353. Vector Control Measures.

(a) All waste tires shall be stored in a manner which prevents the breeding and harborage of mosquitoes, rodents, and other vectors by any of the following means:

(1) Cover with impermeable barriers other than soil to prevent entry or accumulation of precipitation; or

(2) Use of treatments or methods to prevent or eliminate vector breeding as necessary, provided the control program is approved as appropriate and effective by the local vector control authority, if such authority exists. If no local vector control authority exists, the local Environmental Health Department or other local agency with authority over vector control shall approve the vector control plan. Any control program approved by the local vector control authority shall be subject to Department concurrence at the time of issuance or review of the waste tire facility permit.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Section 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17354. Storage of Waste Tires Outdoors.

(a) Waste tires stored outdoors shall be stored as prescribed in the subsections below, and pursuant to the California Fire Code, Title 24 of the California Code of Regulations, Sections 3405.1 through 3405.9, which are hereby incorporated by reference.

(b) All of the requirements in subsections (c) through (j) below shall apply to the storage of waste tires unless, for any particular requirement, the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for the prevention of fire and the protection of life and property. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Department by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Department concurrence at the time of issuance or review of the permit.

(c) Storage of waste tires shall be restricted to individual piles, which include stacks and racks of waste tires, that do not exceed 5,000 square feet of contiguous area. Pile width shall not exceed 50 feet. Any pile shall not exceed 50,000 cubic feet in volume or 10 feet in height.

(d) Tire storage piles containing less than 500 waste tires shall be located no closer than 10 feet from lot lines or buildings; however, tire piles containing less than 500 waste tires may be stored within 10 feet of lot lines or buildings after the operator has obtained approval from the fire code official. Waste tire piles containing less than 500 waste tires shall not exceed 6 feet in height when within 20 feet of any property line, building, or perimeter fencing. Side slopes shall not exceed 60 degrees.

(e) Tire storage piles containing 500 or more waste tires shall be located at least 50 feet from lot lines and buildings, unless the facility is a waste tire facility described in subsections (1) through (4) below.

(1) Where the waste tire facility has obtained approval from the fire code official and the waste tires are stored at an exempt or excluded site defined in 14 CCR Section 17225.822, tire storage piles may be located within 50 feet but no closer than 10 feet from lot lines or from buildings.

(2) Where the waste tire facility has obtained approval from the fire code official and the waste tires are stored at a permitted minor waste tire facility, tire storage piles may be located closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from buildings.

(3) Where waste tires are stored at a minor waste tire facility that was issued a minor waste tire facility permit prior to January 1, 2011, tire storage piles may be located closer than 50 feet but no closer than 10 feet from lot lines and 50 feet from buildings.

(4) In no case shall the waste tire storage piles exceed 6 feet in height when within 20 feet of any lot line or perimeter fencing, and side slopes shall not exceed 60 degrees.

(f) Any individual waste tire pile shall be separated from any other waste tire pile, combustible ground vegetation, stored used tires, waste tire material, or products made from tires, by a distance of at least 40 feet.

(g) Waste tire piles shall not be located under bridges, elevated trestles, elevated

roadways, or stored in an area where they may be subjected to immersion in water during a 100-year storm unless the owner or operator demonstrates that the waste tire facility or solid waste facility will be designed and operated so as to prevent waste tires from migrating off-site.

(h) At a waste tire facility or solid waste facility storing more than 150,000 cubic feet of waste tires, adjacent individual waste tire piles shall be considered a group, and the aggregate volume of storage piles in a group shall not exceed 150,000 cubic feet. Each group shall be separated from any other group by a distance of at least 75 feet.

(i) Tires must be removed from rims immediately upon arrival at the waste tire facility or solid waste facility. Tires temporarily attached to rims awaiting removal shall be stored separate from other waste tires.

(j) The waste tire facility or solid waste facility shall be designed and constructed to provide protection to bodies of water from runoff of pyrolytic oil resulting from a potential tire fire.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Section 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17355. Disposal of Waste Tires at Solid Waste Disposal Facilities.

(a) Waste tires may not be landfilled in a solid waste disposal facility which is permitted pursuant to Chapter 3 of Part 4 of the Public Resources Code, commencing with Section 44001, unless they are permanently reduced in volume prior to disposal by shredding, or other methods subject to solid waste Enforcement Agency approval and Department approval.

(b) The requirement of subsection (a) shall not apply to: waste tires received which are commingled with municipal solid waste that arrive in loads, where the waste tires comprise less than one-half of one (0.5) percent by weight of the total load, or where the waste tires inadvertently arrive in homeowner delivered household loads of mixed waste and are not readily removable from the waste stream.

(c) All waste tires stored at a solid waste disposal facility shall meet the requirements of this Article.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Section 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17356. Storage of Waste Tires Indoors.

(a) Waste tires stored indoors shall be stored in the manner prescribed in the subsections below, and pursuant to the California Fire Code, Title 24 of the California Code of Regulations, Sections 3201.1 through 3210.1, 3403.1 through 3403.4 and 3409.1, which are hereby incorporated by reference:

(1) Waste tires stored adjacent to or along one wall shall not extend more than 25 feet

from such wall.

(2) Waste tire piles shall not exceed 50 feet in width in any one direction. Where waste tires are stored on-tread, standing side by side in rows, the dimension of the pile in the direction of the wheel hole shall not be more than 50 feet.

(3) Waste tires shall not be stored in exits or enclosures for stairways or ramps, or in boiler rooms, mechanical rooms, or electrical equipment rooms.

(4) Waste tires shall not be stored within 2 feet or less from the ceiling in nonsprinklered areas of a building.

(5) Waste tires shall not be stored within 18 inches or less below sprinkler head deflectors in sprinklered areas of a building.

(6) Waste tire facilities and solid waste facilities with an indoor storage area between 500 square feet and 2,500 square feet shall maintain aisles with access to exits and fire access doors in accordance with the following requirements:

(A) In sprinklered buildings aisles shall be a minimum of 44 inches wide.

(B) In nonsprinklered buildings aisles shall be a minimum of 96 inches wide.

(C) The required aisle width shall extend from floor to ceiling.

(7) Waste tire facilities and solid waste facilities with an indoor storage area exceeding 2,500 square feet shall maintain aisles with access to exits and fire access doors in accordance with the following requirements:

(A) In nonsprinklered buildings aisles shall be a minimum of 96 inches wide.

(B) In sprinklered buildings where the waste tire piles are accessible to the public aisles shall be a minimum of 96 inches wide.

(C) In sprinklered buildings where the waste tire piles are not accessible to the public aisles shall be a minimum of 44 inches wide.

(D) The required aisle width shall extend from floor to ceiling.

(8) For waste tire facilities or solid waste facilities with a storage area of 500 square feet or less, the dimensions of the waste tire piles shall not exceed 50 feet in any direction.

(9) For waste tire facilities or solid waste facilities with a storage area greater than 500 square feet the dimensions of the waste tire piles shall not exceed 50 feet in any direction, 30 feet in height, and 75,000 cubic feet in volume.

(10) No waste tire facility or solid waste facility shall store waste tires in an area greater than 500,000 square feet.

(11) Waste tire facilities and solid waste facilities with an indoor storage area greater than 500 square feet shall be equipped with an automatic fire extinguishing system that has been described by the operator in the fire safety plan required by Section 17351(a).

(12) Waste tire facilities and solid waste facilities with an indoor storage area greater than 2,500 square feet shall be equipped with smoke and heat vents that have been described by the operator in the fire safety plan required by Section 17351(a).

(b) For purposes of determining the square footage of storage space described in subsection (a) above, the aggregate of all waste tire storage areas within a building shall be used, unless such areas are separated from each other by 1-hour fire barriers that have been approved by the local fire code official. Openings in 1-hour fire barriers shall be protected by opening protectives having a 1-hour fire protection rating.

(c) The requirements in subsections (a) and (b) above shall apply unless the local fire authority having jurisdiction over a particular facility determines that a different requirement is necessary or adequate to meet the intent of these regulations for fire control and the protection of life and property. Any change in, or any new, local fire authority requirements that affect the requirements in this Article shall be reported to the Department by the operator within 30 days after their effective date. Any requirements approved by the local fire authority shall be subject to Department concurrence at the time of issuance or review of the permit.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Section 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17357. Recordkeeping.

(a) A waste tire facility shall create and maintain records documenting the quantity of waste tires received, stored and shipped from the site on a quarterly basis. The records may include log entries describing the methods of receipt and removal of the waste tires, the number of waste tires received and removed, the name of the person employed to deliver or remove the waste tires, and Manifest Forms.

(b) A waste tire facility shall retain waste tire records as set forth in subsection (a) for three (3) years at the facility location. A facility described in Section 18103 or Section 18420.1 of Title 14 of the California Code of Regulations may retain waste tire records offsite if it notifies the Department of the location where all the records are maintained. On request, a waste tire facility shall provide the records to an authorized Department representative.

Authority cited: *Sections 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17358. Waste Tire Transportation.

A waste tire facility or solid waste facility shall not give, contract, or arrange with another person for transportation of waste or used tires unless that person is a registered waste

tire hauler or is exempt from the registration requirement pursuant to Public Resources Code Section 42954.

Authority cited: *Sections 40502, 42820, 42830 and 43020, Public Resources Code.*
Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 17359. Tire Derived Product Handling.

(a) A person asserting that material meets the definition of tire derived product as set forth in Public Resources Code Section 42805.7 shall provide, on request of a Department representative, documentation that:

(1) The material was acquired through a purchase from a separate and distinct waste tire facility, and

(2) The material has been accumulated for the purpose of a larger project and does not require further reduction in size. This documentation may include contracts or bids for projects requiring the use of tire derived product.

(b) Waste tire material shall not be considered tire derived product if the material is located on property owned or operated by the processing facility at which it was generated.

(c) Material not meeting the requirements in subsection (a) and (b) shall be considered waste tires.

Authority cited: *Sections 40502, 42820, 42830 and 43020, Public Resources Code.*
Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Article 5.6. Nonhazardous Petroleum Contaminated Soil Operations and Facilities Regulatory Requirements

Section 17360. Authority and Scope.

(a) This Article sets forth permitting requirements and minimum operating standards for operations that handle only nonhazardous petroleum contaminated soil, as specified. This Article is not applicable to Class II or III landfills that handle other waste types in addition to contaminated soil.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) This Article implements those provisions of the Act relating to the handling of nonhazardous petroleum contaminated soil. Nothing in this Article is intended to limit the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer.

(d) Nothing in this Article shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health entities, regional water quality control boards and air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(e) Nothing in this Article is intended to require the owner or operator of a contaminated soil transfer/processing operation or disposal facility to comply with the Enforcement Agency Notification requirements or to obtain a tiered solid waste facilities permit pursuant to this Article if that owner or operator already has a valid full solid waste facilities permit pursuant to Section 44001 of the Public Resources Code.

(f) Operations and facilities subject to this Article shall be in compliance with the provisions of this Article within 90 days after effective date.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17361. Definitions.

For the purposes of this Article:

(a) "Air District" means Air Pollution Control District or Air Quality Management District.

(b) "Contaminated Soil" means soil that:

(1) contains designated or nonhazardous as set forth in Title 23, Chapter 15, Article 1, Section 2510 et seq. of the California Code of Regulations, of petroleum hydrocarbons, such as gasoline and its components (benzene, toluene, xylene, and ethylbenzene), diesel and its components (benzene), virgin oil, motor oil, or aviation fuel, and lead as an associated metal; and,

(2) has been determined pursuant to Section 13263(a) of the Water Code to be a waste that requires regulation by the RWQCB or Local Oversight Agency.

(c) "Contaminated Soil Transfer/Processing Operation" means an operation that handles only contaminated soil for purposes of treatment, storage, or transfer. It does not include manufacturing operations.

(d) "Contaminated Soil Disposal Facility" means a facility that handles only contaminated soil for purposes of disposal. It does not include manufacturing operations.

(e) "Disposal" means:

(1) final deposition of contaminated soil onto land, or,

(2) when located at a transfer/processing operation(s), deposition of contaminated soil

onto land for a combined period of time greater than one year for transfer, storage, and/or treatment.

(3) Notwithstanding subdivision (e)(2) of this Section, deposition of contaminated soil onto land shall not constitute disposal if the RWQCB or the enforcement agency authorizes contaminated soil to remain within the operations area for a period of time greater than one year for the purpose of treatment.

(4) Once the enforcement agency has reason to believe that contaminated soil has been disposed, the burden of proof shall be on the owner or operator to demonstrate that disposal has not occurred.

(5) Disposal does not include the use of contaminated soil for cover material at a solid waste landfill. Notwithstanding this Section, contaminated soil shall still require approval for use as cover by the CIWMB and possibly other governmental agencies, including the RWQCB and Air Districts.

(f) "Local Oversight Agency" means the department, office, or other agency of a county or city authorized pursuant to law other than the Act, commencing with Section 40000 of the Public Resources Code, to oversee the cleanup of contaminated soil at a specific location, including but not limited to those agencies designated pursuant to Health and Safety Code Section 25283 (Underground Storage Tanks).

(g) "Manufacturing" means using contaminated soil as a raw material in making a finished product that is distinct from soil. Such finished products include but are not limited to asphalt and asphaltic concrete.

(h) "Noncontaminated Soil" means soil that is not required to be regulated as a waste by the RWQCB or Local Oversight Agency.

(i) "Operations Area" means the following areas within the boundary of a contaminated soil transfer/processing operation or disposal facility which is regulated by the CIWMB, the boundary may or may not be the same as the property boundary and could reflect a smaller area:

- (1) equipment management area, including cleaning, maintenance, and storage areas;
- (2) stockpiling areas for contaminated soil; and,
- (3) treatment and/or transfer and/or storage and/or disposal areas.

(j) "Operator" means the owner; or other person who through a lease, franchise agreement or other arrangement with the owner, is legally responsible for all of the following:

- (1) complying with regulatory requirements set forth in this Article;
- (2) complying with all applicable federal, state and local requirements;

- (3) the design, construction, and physical operation of the operations area; and,
- (4) site restoration.

(k) "Owner" means the person or persons who own, in whole or in part, a contaminated soil transfer/processing operation or disposal facility, or the land on which it is located.

(l) "RWQCB" means the Regional Water Quality Control Board.

(m) "Site" means the operations area.

(n) "Transfer" means a handling method where contaminated soil is received temporarily for purposes of transferring from one vehicle to another.

(o) "Treatment" means a reduction in petroleum hydrocarbons present in contaminated soil to a concentration specified by the RWQCB or Local Oversight Agency. Treatment methods may include, aeration, bioremediation, thermal, solidification and chemical fixation, and soil washing.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17362.0. Regulatory Tiers for Contaminated Soil Operations and Facilities.

Sections 17362.1 through 17362.3 set forth the regulatory tier requirements (commencing at Section 18100) that apply to specified types of contaminated soil operations and facilities.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17362.1. Excluded Operations.

The solid waste handling operations and facilities listed in this Section do not constitute contaminated soil transfer/processing operations or disposal facilities for the purposes of this Article and are not required to meet the requirements set forth herein. Nothing in this Section precludes the enforcement agency or the board from inspecting an excluded operation or facility to verify that the operation or facility is being conducted in a manner that qualifies as an excluded operation or facility or from taking any appropriate enforcement action.

(a) Transfer/processing of contaminated soil:

(1) from a single generator source owned or leased by the generator, its parent, or subsidiary to property owned or leased by the same generator, its parent, or subsidiary;
or,

(2) from a single generator source owned or leased by the generator, its parent, or

subsidiary to a specific location for a one time treatment that is within the jurisdiction of the RWQCB and/or the Local Oversight Agency, and/or air district.

(b) Disposal of contaminated soil from a single Petroleum Exploration and Production Company, its parent, or subsidiary to property owned or leased by the same Petroleum Exploration and Production Company, its parent, or subsidiary.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17362.2. Contaminated Soil Transfer/Processing Operations.

All contaminated soil transfer/processing operations, except as otherwise provided in this Article, shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing at Section 18103). These operations shall be inspected by the enforcement agency at least once every three (3) months unless the enforcement agency approves, with Department concurrence, a reduced inspection frequency. The enforcement agency may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. [Note: See Section 18083(a)(3) for additional enforcement agency and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17362.3. Contaminated Soil Disposal Facilities.

All contaminated soil disposal facilities, except as otherwise provided in Section 17362.1, shall obtain a Standardized Contaminated Soil Solid Waste Facilities Permit, as set forth in form CIWMB 90 "Contaminated Soil Standardized Solid Waste Facilities Permit" (new 8/95), which is incorporated herein by reference (See Appendix A.), pursuant to the requirements of Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18105).

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17363. Standardized Contaminated Soil Solid Waste Facilities Permit Terms and Conditions.

The enforcement agency shall include in a Standardized Contaminated Soil Solid Waste Facilities Permit only those terms and conditions, and no others, contained in form CIWMB 90 "Contaminated Soil Standardized Solid Waste Facilities Permit" (rev. 12/96), which is incorporated herein by reference. (See Appendix A.)

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17364. Contaminated Soil Operation and Facility Standards

Sections 17364.1 through 17364.3 set forth the minimum standards that apply to all types of contaminated soil operations and facilities.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17364.1. Sitting On Landfills.

(a) Contaminated soil operations and facilities located on top of closed solid waste landfills shall meet postclosure land use requirements pursuant to Title 14, Division 7, Chapter 3, Article 7.8, Section 17796 of the California Code of Regulations.

(b) Contaminated soil operations and facilities that would be located on top of intermediate cover on a solid waste landfill shall locate operations on areas on foundation substrate that is stabilized by compaction to minimize differential settlement, ponding, soil liquefaction, or failure of pads or structural foundations.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17364.2. General Design Requirements.

Contaminated soil operations and facilities shall be designed and constructed in such a manner as to ensure that the operations and facilities comply with the operational requirements set forth in this Article. A copy of the design of the contaminated soil disposal facility is required as part of the Report of Contaminated Soil Disposal Site Information, as set forth in Section 18224.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17364.3. General Operating Standards.

(a) All activities shall be conducted in a manner that minimizes litter, nuisances, dust, noise impacts, or other public health and safety and environmental hazards.

(b) Unauthorized human or animal access to the operation or facility shall be prevented.

(c) Traffic flow into, on, and out of the operation and facility shall be controlled in a safe manner.

(d) All operations and facilities open for public business shall post legible signs at all public entrances that include the following:

(1) name of the operation,

(2) name of the operator,

(3) hours of operation,

(4) specify that only nonhazardous petroleum contaminated soil will be accepted, and

(5) phone number where operator or designee can be reached in case of an emergency.

(e) The operator shall provide telephone or radio communication capability for emergency purposes.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17365. General Record Keeping Requirements.

All contaminated soil/transfer operations and disposal facilities shall meet the following requirements:

(a) All records required by this Article shall be kept by the operator in one location and accessible for five (5) years and shall be available for inspection by authorized representatives of the Department, enforcement agency, local health entity, and other duly authorized regulatory and enforcement agencies during normal working hours.

(b) The operator shall maintain a log of special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Special occurrences may include: fires, injury and property damage accidents, explosions, discharge of hazardous or other wastes not permitted, flooding and other unusual occurrences.

(c) The operator shall record any written public complaints received by the operator, including:

(1) the nature of the complaint,

(2) the date the complaint was received,

(3) if available, the name, address, and telephone number of the person or persons making the complaint, and

(4) any actions taken to respond to the complaint.

(d) The operator shall record, as specified by the RWQCB, the types and concentrations of constituents, the date, and quantity of contaminated soil accepted at the operation or facility; and for treatment, transfer, or storage operations, the types and concentrations of constituents, the date, and quantity of contaminated soil and noncontaminated soil leaving the operations. Where no requirements have been specified by the appropriate RWQCB, the operator shall record the same information as provided by generator

source. The operator shall also record the name of all transfer, storage, and/or treatment operations where the contaminated soil was located prior to the receipt by the operator and the dates the contaminated soil was received at each of these operations and removed.

(e) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020, and 43021 of the Public Resources Code.
Reference: Sections 43020 and 43021 of the Public Resources Code.

Section 17366. Contaminated Soil Operation and Facility Restoration.

All contaminated soil operations and facilities shall meet the following requirements:

(a) The operator shall provide the enforcement agency written notice intent to perform site restoration, at least 30 days prior to beginning site restoration.

(b) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operation and termination of service:

(1) the operation grounds, excluding the disposal area, shall be cleaned of all contaminated soil, construction scraps, and other materials related to the operation, and these materials legally recycled, reused, or disposed of,

(2) all machinery shall be cleaned of contaminated soil, and

(3) all remaining structures shall be cleaned of contaminated soil.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Article 5.7. Hazardous Waste Disposal Facilities Disposing Nonhazardous, Nonputrescible, Industrial Solid Waste Regulatory Requirements

Section 17367. Authority and Scope.

(a) This Article sets forth permitting requirements and minimum operating standards for those hazardous waste disposal facilities which hold a valid Hazardous Waste Facility Permit from the Department of Toxic Substances Control and codispose nonhazardous, nonputrescible, industrial solid waste with hazardous waste in one or more waste

management units within the disposal facility.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) Nothing in this Article limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict cities or counties from promulgating laws which are at least as strict as the regulations contained in this Article. However, no city or county may promulgate laws which are inconsistent with the provisions of this Article or Title 22 California Code of Regulations, Division 4.5.

(d) Nothing in this Article shall be construed as relieving any owner or operator, from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or other requirements of other regulatory or enforcement agencies, including, but not limited to, local health agencies, the Regional Water Quality Control Board, the Department of Toxic Substances Control, air quality management district or air pollution control district, local land use authorities, and fire authorities.

(e) These regulations are intended to provide a sufficient level of information and oversight to ensure that the codisposal of nonhazardous, nonputrescible, industrial solid waste at a hazardous waste disposal facility will be conducted in a manner which meets the purposes of the Act, as specified in Public Resources Code Section 40052, while protecting the public health, safety and the environment.

Authority cited: *Sections 40502, 43020, 43021, and 44103, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17368. Definitions.

For the purposes of this Article:

(a) "Air District" means Air Pollution Control District or Air Quality Management District.

(b) "Board" means the California Integrated Waste Management Board.

(c) "Codisposal" means the final deposition of nonhazardous, nonputrescible, industrial solid waste disposed with hazardous waste in a waste management unit.

(d) "Cover" means soils or alternative materials used in covering the nonhazardous, nonputrescible, industrial solid waste in a hazardous waste disposal facility waste management unit.

(e) "DTSC" means Department of Toxic Substances Control.

(f) "EA" means enforcement agency as defined in Public Resources Code Section

40130.

(g) "Hazardous waste disposal facility," or "facility" means a disposal facility that holds and maintains a valid Hazardous Waste Facility Permit issued by the Department of Toxic Substances Control pursuant to Section 25200 of the California Health and Safety Code.

(h) "Nonhazardous, Nonputrescible, Industrial Solid Waste" means solid waste (as defined in Public Resources Code Section 40191) which also meets all of the following criteria:

(1) Nonputrescible: Solid wastes which are not capable of being decomposed by micro-organisms with sufficient rapidity as to cause odors, gases, attraction of vectors or other offensive conditions. For example, wastes that are putrescible, and do not qualify as nonputrescible, include without limitation food wastes, offal and dead animals.

(2) Liquid Content: Solid wastes that contain no free liquid, whether such wastes are in bulk or in containers. The absence of free liquid shall be determined by the method specified in Title 22 California Code of Regulations Section 66264.314(b).

(3) Nonhazardous, Nonputrescible, Industrial Solid Waste expressly excludes:

(A) Household waste as defined in Title 27 California Code of Regulations Section 20164;

(B) Wastes which are prohibited at any hazardous waste disposal facility by applicable statutes or regulations of any governmental body having jurisdiction;

(C) With respect to a specific hazardous waste disposal facility, wastes which are prohibited at that particular hazardous waste disposal facility by the terms and conditions of any permit or entitlement to use issued by a governmental body.

(i) "Operating Record" means a facility's records of compliance with the requirements set forth in this Article.

(j) "RWQCB" means the Regional Water Quality Control Board.

(k) "Waste management unit" or "unit" means an area within a hazardous waste disposal facility where hazardous wastes may be disposed pursuant to a hazardous waste facility permit issued by the Department of Toxic Substances Control, expressly excluding surface impoundments.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17369. Regulatory Tier for Hazardous Waste Disposal Facilities Codisposing Nonhazardous, Nonputrescible, Industrial Solid Waste.

(a) All hazardous waste disposal facilities codisposing nonhazardous, nonputrescible,

industrial solid waste shall comply with the Registration Permit requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18104). These facilities shall be inspected monthly by the EA, or more frequently if necessary to verify compliance with the standards set forth in this Article. "Hazardous waste" (as defined in Title 22 California Code of Regulations Sections 66260.10 and 66261.3) shall not be accepted under the provisions of the Registration Permit issued pursuant to this Section.

(b) In addition to the Registration Permit Application required by subdivision (a) of this Section, each operator of a hazardous waste disposal facility shall file with the EA a "Nonhazardous, Nonputrescible, Industrial Solid Waste Codisposal Plan" (Plan) (as specified in Section 18225). The information contained in the Plan shall be reviewed by the EA, in the same manner as required for the application, to determine whether it is complete and correct as defined in Title 14, Division 7, Chapter 5.0, Article 3.0, Section 18101. The EA shall obtain written verification from Board staff that Section 18225(g) and (h) of Article 3.2 are correct prior to their determination of a complete and correct application.

(c) A hazardous waste disposal facility that accepts other types of solid wastes, which do not meet the definition of "nonhazardous, nonputrescible, industrial solid waste", shall obtain a Full Solid Waste Facilities Permit pursuant to the requirements of Title 27 California Code of Regulations, Division 2, Subdivision 1, Chapter 4 (Section 21450 et seq.) prior to commencing operations. "Hazardous waste" (as defined in Title 22 California Code of Regulations Sections 66260.10 and 66261.3) shall not be accepted under the provisions of the Full Solid Waste Facilities Permit issued pursuant to Title 27 California Code of Regulations.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17370.1. General Operating Standard.

The daily cover shall be applied as approved by Department of Toxic Substances Control pursuant to Title 22 California Code of Regulations Section 66264.301(i) or 66265.301(i), as applicable, or the Air District, whichever requirement is more stringent.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17370.2. Record Keeping Requirements.

Each operator of a hazardous waste disposal facility shall meet the following requirements with respect to nonhazardous, nonputrescible, industrial solid waste disposed at the facility:

(a) All records required by this Article shall be kept in one location and accessible for three years and shall be available for inspection by authorized representatives of the EA, the Department, and other duly authorized regulatory and enforcement agencies

during normal working hours. If necessary, then copies of these records may be maintained at an alternative site, as long as that site is easily accessible to the EA.

(b) The operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment, as it relates to the acceptance and disposal of nonhazardous, nonputrescible, industrial solid wastes (as defined in section 17368 of this Article).

(c) The operator shall maintain records of the tonnage of nonhazardous, nonputrescible, industrial solid waste that is codisposed in each waste management unit at the facility on a daily basis. The operator shall also maintain records of the tonnage of hazardous waste codisposed in each waste management unit at the facility on a monthly basis. These records shall be provided to the EA or the Department upon request.

(d) By March 1 of each year, the operator shall annually report to the EA and the Department the total amount of nonhazardous, nonputrescible, industrial solid waste and hazardous waste codisposed the previous year.

(e) The operator shall maintain a copy of the demonstration required pursuant to Title 14, California Code of Regulations section 18225(f) in the operating record.

(f) The operator shall provide the EA with written notice of intent (Notice) to close a waste management unit at least 60 days prior to beginning unit closure, and maintain a copy of the Notice in the operating record.

(g) All such facilities shall maintain records as required by Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020, 43021 and 43501, Public Resources Code.

Article 5.8. Nonhazardous Ash Regulatory Tier Requirements

Section 17375. Authority and Scope.

(a) This Article sets forth permitting requirements and minimum operating standards for operations and facilities that handle and/or dispose of nonhazardous ash, as specified. This Article is not applicable to Class II or III landfills that handle and/or dispose of other waste types in addition to nonhazardous ash.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) This Article implements those provisions of the Act relating to the handling and/or disposal of nonhazardous ash. Nothing in this Article is intended to limit the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer.

(d) Nothing in this Article shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(e) These regulations are intended to provide a sufficient level of information and oversight to ensure that the transfer and processing, or monofilling of nonhazardous ash will be conducted in a manner which meets the purposes of the Act while protecting public health, safety and the environment. Materials that may otherwise be disposed to landfills may be, among other things, processed to reduce, reuse, and recycle the material to the maximum extent feasible in an efficient and cost-effective manner to conserve water, energy and other natural resources.

(f) Operations and facilities subject to this Article shall be in compliance with the provisions of this Article within 90 days after the effective date of this Article.

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

Section 17376. Definitions.

For the purposes of this Article:

(a) "Air District" means Air Pollution Control District or Air Quality Management District.

(b) "Disposal" means:

(1) final deposition of nonhazardous ash onto land.

(2) stockpiling of nonhazardous ash onto land for a combined period of time greater than six months when located for use at the site of a transfer/processing operation(s) unless the RWQCB in consultation with the enforcement agency authorizes nonhazardous ash to remain within the operations area for a period of time greater than six months.

(3) disposal does not include the use of nonhazardous ash for cover material at a solid waste landfill. Notwithstanding this Section, use of nonhazardous ash as a cover material shall still require approval for use pursuant to Title 27 California Code of Regulations Section 20680 and may require additional approvals from other governmental agencies, including, but not limited to RWQCB and Air Districts.

(4) disposal does not include the use of nonhazardous ash for a reclamation project as defined in Section 17376 (m).

(5) disposal does not include the use of nonhazardous ash for snow and ice control, roadbase/subbase, walk areas, parking areas, airport runways, trails, dairy or feedlot soil stabilization, structural fill, sludge/manure/waste stabilizing material, compost mineral filler, smelter flux, blending in a soil product, and similar uses in accordance with Public Resources Code Section 40180. Nonhazardous ash used for these purposes is not subject to the requirements of this Article. Nothing in this Section precludes the enforcement agency or the CIWMB from inspecting any of the activities listed in this subdivision to verify that the activity qualifies for this exception from the definition of disposal.

(6) disposal does not include land application of nonhazardous ash as defined in Section 17376(e).

(7) Should the enforcement agency have information that a nonhazardous ash handler is engaging in other activities that are subject to this Article, the burden of proof shall be on the land owner or operator to demonstrate otherwise.

(c) "Fully Enclosed Structure" means either a building with a roof and walls that prevent rain and wind from affecting the material, or covered container.

(d) "Generator" means the nonhazardous ash producer.

(e) "Land Application" means the application of nonhazardous ash to forest, agricultural, and range land in accordance with California Department of Food and Agriculture requirements for a beneficial use as authorized by Food and Agricultural Code Section 14501 et seq. Land application does not constitute disposal and is not subject to the requirements of this Article.

(f) "Manufacturing" means using nonhazardous ash as a raw material in making a finished product that is distinct from nonhazardous ash. Such finished products include but are not limited to cement and concrete products, asphalt, blasting grit, roofing granules and tiles, wallboard, bricks, vitrified clay pipe, stucco and decorative rock. Nonhazardous ash used in manufacturing is not subject to the requirements of this Article. Should the enforcement agency have information that a nonhazardous ash manufacturer is engaging in other activities that are subject to this Article, the burden of proof shall be on the land owner or operator to demonstrate otherwise.

(g) "Nonhazardous Ash" means the nonhazardous residue from the combustion of material or the hazardous residue which may be managed as a nonhazardous waste in accordance with Title 22 California Code of Regulations Sections 66260.200(f) or 66260.210. The classification of a waste as hazardous or nonhazardous is made pursuant to Title 22 California Code of Regulations Section 66260.200.

(h) "Nonhazardous Ash Disposal/Monofill Facility" or "Facility" means a facility that handles only nonhazardous ash for purposes of disposal and is not a landfill pursuant to

Public Resources Code Section 40195.1.

(i) "Nonhazardous Ash Transfer/Processing Operation" or "Operation" means an operation that handles only nonhazardous ash for purposes of transfer, treatment, or storage. This definition does not include transformation, biomass conversion, or other incineration facilities.

(j) "Operations Area" means the following areas within the boundary of an operation or facility that are subject to this Article, although the boundary may or may not be the same as the property boundary:

(1) equipment management area, including cleaning, maintenance, and storage areas;

(2) stockpiling areas for nonhazardous ash;

(3) transfer and/or processing and/or disposal areas.

(k) "Operator" means the land owner or other person who, through a lease, franchise agreement or other contract with the land owner is legally responsible for all of the following:

(1) transfer/processing operations or disposal;

(2) complying with all applicable federal, state and local requirements relating to the operation;

(3) the design, construction, and physical operation of a transfer/processing operation or disposal/monofill facility;

(4) operations site restoration of a transfer/processing operation or disposal/monofill facility.

(l) "Owner" means the person or persons who own, in whole or in part, a nonhazardous ash transfer/processing operation, disposal/monofill facility, or the land on which it is located.

(m) "Reclamation Project" means the use of nonhazardous ash in accordance with the requirements of the Office of Mine Reclamation of the Department of Conservation as authorized by Public Resources Code Section 2770 et seq. Reclamation projects do not constitute disposal and is not subject to the requirements of this Article.

(n) "RWQCB" means the Regional Water Quality Control Board.

(o) "Site" means the operations area.

(p) "Treatment" means any method, technique, or process which changes or is designed to change the physical, chemical, or biological character or composition of nonhazardous ash. Treatment may also include the removal or reduction of harmful

properties or characteristics for any purpose including, but not limited to, material recovery or reduction in volume.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
 Reference: *Sections 40180, 43020 and 43021, Public Resources Code.*

Section 17377.0. Regulatory Tiers for Nonhazardous Ash Operations and Facilities.

Sections 17377.1 through 17377.3 set forth the regulatory tier requirements (commencing with Section 18100) that apply to specified types of nonhazardous ash operations and facilities. These requirements are summarized in Table 1.

Table 1

Not Subject to Article 5.8	Excluded Tier	Enforcement Agency Notification Tier	Standardized Tier
Stockpiling, Section 17376(b)(2)	Transfer/processing, Section 17377.1	Transfer/processing operations, Section 17377.2	Disposal/monofill, Section 17377.3
Daily Cover, Section 17376(b)(3)	Weathertight storage, Section 17377.1		
See Section 17376(b)(5)			
Land Application, Section 17376(e)			
Manufacturing, Section 17376(m)			
Reclamation Projects, Section 17376(f)			

There are no operations or facilities placed within the Registration and Full Permit tiers

within this Article.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17377.1. Excluded Operations.

The solid waste handling operations and facilities listed in this Section do not constitute nonhazardous ash transfer/processing operations, or disposal/monofill facilities for the purposes of this Article, and are not required to meet the requirements set forth herein.

(a) Transfer/processing operations of nonhazardous ash are excluded from the requirements of this Article when the only activity is:

(1) the transfer/processing from land owned by a single nonhazardous ash generator source or leased by the generator, its parent, or subsidiary, to property owned or leased by the same generator, its parent, or subsidiary; or,

(2) storage within a fully enclosed weather tight structure.

(b) Nothing in this Section precludes the enforcement agency or the CIWMB from inspecting an excluded operation or facility to verify that the operation or facility is being conducted in a manner that qualifies as an excluded operation or facility, or from taking any appropriate enforcement action.

(c) Should the enforcement agency have information that a nonhazardous ash operation is not excluded in accordance with this Section, the burden of proof shall be on the land owner or operator to demonstrate otherwise.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17377.2. Nonhazardous Ash Transfer/Processing Operations.

(a) All operators of nonhazardous ash transfer/processing operations, except as otherwise provided in this Article, shall comply with the Enforcement Agency Notification requirements set forth in the California Code of Regulations, Title 14, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18103).

(b) In addition to the requirements to subdivision (a), the following statement shall be included in the enforcement agency notification and signed by the operator: "The undersigned certify under penalty of perjury that the information in this document and all attachments are true and correct to the best of my knowledge, and is being executed in accordance with the requirements of the California Code of Regulations, Title 14, Division 7, Chapter 3, Article 5.8 (commencing with Section 17375). I certify that the ash as represented in this document is nonhazardous and from a nonhazardous feedstock as defined in Section 17376 (g) and is to be managed in accordance with this notification. I am aware that there are significant penalties for submitting false or misleading information in this certification, including the possibility of fine or

imprisonment, or both."

(c) A new Enforcement Agency Notification is required any time there are changes to information required by this Section.

(d) These operations shall be inspected by the enforcement agency every three (3) months unless the enforcement agency approves, with Department concurrence, a reduced inspection frequency. The enforcement agency may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional enforcement agency and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17377.3. Nonhazardous Ash Disposal/Monofill Facilities.

(a) All nonhazardous ash disposal/monofill facilities, shall obtain a Standardized Nonhazardous Ash Solid Waste Facility Permit pursuant to the requirements of the California Code of Regulations, Title 14, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18105).

(b) The enforcement agency shall include only those terms and conditions, and no others, contained in CIWMB Form 98 (new 7/96) Standardized Nonhazardous Ash Solid Waste Facility Permit, set forth in Appendix A in this Division.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17378.0. Applicability of State Minimum Standards for Nonhazardous Ash Operations and Facilities.

Sections 17378.1 through 17378.3 set forth the minimum standards that apply to all types of nonhazardous ash operations and facilities. Approvals, determinations and other requirements which the enforcement agency is authorized to make under Article 5.8 shall be provided in writing to the operator. The operator shall maintain a copy of these approvals in addition to those records identified in Section 17379.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17378.1. Siting On Landfills.

(a) Nonhazardous ash operations and facilities or portions thereof, located atop closed solid waste landfills shall meet postclosure land use requirements pursuant to Title 27 California Code of Regulations Section 21190.

(b) Operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall locate operations areas on foundation substrate that is stabilized, either by natural or mechanical compaction, to minimize differential settlement, ponding, soil liquefaction, or failure of pads or structural foundations.

(c) Operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall be operated in a manner that will not interfere with the operations of the landfill or with the closure or postclosure maintenance of the landfill.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17378.2. General Design Requirements.

(a) The design of a new nonhazardous ash transfer/processing operation or disposal/monofill facility shall utilize expert advice, as appropriate, from persons competent in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures.

(b) Each nonhazardous ash transfer/processing operation or nonhazardous ash disposal/monofill facility design shall be based on appropriate data regarding the expected service area, anticipated nature and quantity of nonhazardous ash to be received, climatological factors, physical settings, adjacent land use (existing and planned), types and number of vehicles anticipated to enter the operation or facility, adequate off-street parking facilities for transfer vehicles, drainage control, the hours of operation and other pertinent information. If the operation or facility is to be used by the general public, the design shall take account of safety features that may be needed to accommodate such public use.

(c) The operation or facility shall be designed in such a manner as to restrict the unloading area to as small an area as practicable, provide adequate control of windblown material, and minimize the creation of nuisances at the operation or facility. Other factors that shall be taken into consideration are: dust control, noise control, public safety, and other pertinent matters related to the protection of public health.

(d) Nonhazardous ash storage containers that are considered weather tight shall be durable, easily cleanable, designed for safe handling, and constructed to prevent loss of wastes from the equipment during storage. Such equipment shall be nonabsorbent and leak-resistant. Unloading areas shall be easily cleanable, designed for safe handling and constructed to prevent loss of nonhazardous ash.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17378.3. Operating Standards

Each operator of a nonhazardous ash transfer/processing operation or disposal/monofill facility shall meet the following requirements:

- (a) All activities at the operation or facility shall be conducted in a manner that minimizes nuisances, noise impacts, or other public health, safety and environmental hazards.
- (b) Unauthorized human or animal access to the operation or facility shall be prevented.
- (c) Traffic flow into, on, and out of the operation or facility shall be controlled in a safe manner.
- (d) The operator shall take adequate measures to minimize and prevent safety hazards due to obscured visibility at the operation or facility.
- (e) Drainage shall be controlled at operations and facilities to protect the public health and safety and to prevent interference with the operation.
- (f) All operations and facilities open for public business shall post legible signs at all public entrances that include the following:
 - (1) name of operation or facility,
 - (2) name of the operator,
 - (3) hours of operation,
 - (4) a statement that only nonhazardous ash will be accepted, and
 - (5) phone number where operator or designee can be reached in case of an emergency.
- (g) The operator shall provide telephone or radio communication capability for emergency purposes.

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

Section 17379.0. General Record Keeping Requirements.

Each operator of a nonhazardous ash transfer/processing operation or disposal/monofill facility shall meet the following requirements:

- (a) All records required by this Article shall be kept by the operator in one location and be accessible for five (5) years and shall be made available for inspection by authorized representatives of the Department, enforcement agency, and other duly authorized regulatory and enforcement agencies during normal working hours. The operator shall submit copies of records to the enforcement agency upon request. An alternative schedule of record submittal may be approved by the enforcement agency.
- (b) The operator shall maintain a daily log or file of special occurrences encountered during operations and methods used to resolve problems arising from these events,

including details of all incidents that required implementing emergency procedures. Special occurrences may include fires, injury and property damage, accidents, explosions, discharge of hazardous or other wastes not permitted, flooding and other unusual occurrences.

(c) The operator shall record any written public complaints received by the operator, including:

(1) the nature of the complaint,

(2) the date the complaint was received,

(3) if available, the name, address, and telephone number of the person or persons making the complaint, and

(4) any actions taken to respond to the complaint.

(d) The operator shall record the date, generator source, and quantity of nonhazardous ash accepted.

(e) The operator shall maintain records of weights or volumes handled in a manner and form approved by the enforcement agency so as to be sufficiently accurate for overall planning and control purposes.

(f) Transfer/processing facility operators shall record the quantity of nonhazardous ash leaving the operations.

(g) The disposal/monofill facility operator shall also record the name of all transfer/processing operations where the nonhazardous ash was located prior to receipt by the operator and the dates the nonhazardous ash was received at each of these operations and removed.

(h) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

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

Section 17379.1. Nonhazardous Ash Operation and Facility Restoration.

All nonhazardous ash transfer/processing operations and disposal/monofill facilities shall meet the following requirements:

(a) The operator shall provide the enforcement agency written notice of intent to perform site restoration, at least 30 days prior to beginning site restoration.

(b) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operation and termination of service:

(1) the operation or disposal/monofill facility grounds, excluding the disposal area, shall be cleaned of all nonhazardous ash, construction scraps, and other materials related to the operation or disposal/monofill facility, and these materials legally recycled, reused, or disposed of;

(2) all machinery shall be cleaned of nonhazardous ash prior to removal from the facility;

(3) all remaining structures shall be cleaned of nonhazardous ash.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Article 5.9. Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements

Section 17380. Authority and Scope.

(a) Article 5.9 sets forth permitting requirements, tier requirements, and minimum operating standards for operations and facilities that receive, store, handle, transfer, or process construction and demolition (C&D) debris and inert debris, as defined herein. C&D debris and inert debris are specific types of solid waste that present a different potential threat to public health and safety and the environment than typical municipal solid waste, thus, can be handled with different regulatory oversight. This Article places operations and facilities that handle C&D debris and inert debris into the Department's tiers to provide appropriate regulatory oversight to protect public health and safety and the environment.

(b) This Article is not applicable to operations and facilities that are wholly governed by regulations elsewhere in this Chapter. Operations and facilities that receive, store, handle, transfer, or process construction and demolition debris or inert debris that is commingled with solid waste that does not meet the definition of C&D debris or inert debris shall be regulated as transfer/processing operations and facilities pursuant to Articles 6.0 through 6.5, inclusive, of this Chapter.

(c) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code (PRC), as amended. These regulations should be read together with the Act.

(d) Nothing in this Article limits or restricts the power of any Federal, State, or local agency to enforce any provision of law that it is authorized or required to enforce or

administer, nor to limit or restrict local governments from promulgating laws which are as strict as or stricter than the regulations contained in this Article. However, no local government may promulgate laws which are inconsistent with the provisions of this Article.

(e) No provision in this Article shall be construed as relieving any owner, or operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of the other regulatory or enforcement agencies, including, but not limited to, local health agencies, Regional Water Quality Control Boards, Department of Toxic Substances Control, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(f) No provision of this Article is intended to affect the rights or duties of any party to, or in any way influence the interpretation of, any franchise agreement between a local government and its franchisee, any other agreement among any parties, or any local ordinance with respect to any aspect of solid waste handling, including without limitation solid waste collection, transportation, processing, and storage, and solid waste disposal.

(g) This Article does not apply to persons who generate C&D debris or inert debris in the course of carrying out construction, remodeling, repair, demolition or deconstruction of buildings, roads and other structures (collectively, "construction work") at the site of the construction work or to persons who own the land, buildings or other structures that are the object of the construction work, provided that such persons do not accept at the site any C&D debris or inert debris that is generated at any other location, unless it will be used in the construction work, and provided further that such persons do not allow C&D debris or inert debris, other than C&D debris or inert debris that is used in the construction work, to remain on the site of the construction work after the construction work is completed. For example, public works agencies constructing roads and bridges, road repair, airport runway construction, bridge and roadway work, levee work, flood control work, or landslide debris cleanup, and public and private contractors demolishing or constructing buildings are not subject to these regulations during the course of the construction work.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17380.1. Purpose.

(a) It is the Department's intent in adopting this Article to encourage the recycling and reuse of C&D debris and inert debris that may otherwise be disposed in a solid waste disposal facility.

(b) These regulations are intended to provide a sufficient level of information and oversight to ensure that the receipt, storage, handling, transfer, and processing of C&D debris and inert debris will be conducted in a manner which meets the purposes of the Act while protecting public health, safety and the environment.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17381. Definitions.

For the purposes of this Article, the following definitions shall apply. Additional definitions and related provisions that apply to this Article are found in California Code of Regulations (CCR), Title 14, Division 7, Chapter 3.0, Article 6.0, Sections 17402 and 17402.5, and Article 4, Section 17225 et seq.

(a) "Active Compost" as set forth in CCR, Title 14, Division 7, Chapter 3.1, Article 1, Section 17852.

(b) "C&D" means Construction and Demolition debris.

(c) "CDI" means any combination of Construction and Demolition debris and Inert debris.

(d) "Compostable Material" means any organic material that when accumulated may become active compost.

(e) "Construction and Demolition Debris", or "C&D Debris" is solid waste that is a portion of the waste stream defined as "construction and demolition wastes," as defined in Section 17225.15 of Article 4 of this Chapter, and means source separated or separated for reuse solid waste and recyclable materials, including commingled and separated materials, that result from construction work, that are not hazardous, as defined in CCR, Title 22, Section 66261.3 et seq., and that contain no more than 1% putrescible wastes by volume calculated on a monthly basis and the putrescible wastes do not constitute a nuisance, as determined by the EA.

(1) C&D debris includes only the following items which meet the above criteria:

(A) components of the building or structure that is the subject of the construction work including, but not limited to, lumber and wood, gypsum wallboard, glass, metal, roofing material, tile, carpeting and floor coverings, window coverings, plastic pipe, concrete, fully cured asphalt, heating, ventilating, and air conditioning systems and their components, lighting fixtures, appliances, equipment, furnishings, and fixtures;

(B) tools and building materials consumed or partially consumed in the course of the construction work including material generated at construction trailers, such as blueprints, plans, and other similar wastes;

(C) cardboard and other packaging materials derived from materials installed in or applied to the building or structure or from tools and equipment used in the course of the construction work; and

(D) plant materials resulting from construction work when commingled with dirt, rock, inert debris or C&D debris.

(2) C&D debris expressly excludes, commingled office recyclables and, except as provided in subdivision 17381(e) above, commingled commercial solid waste and commingled industrial solid waste as they are defined in Title 27, CCR Section 20164.

(3) Notwithstanding anything to the contrary in this Article, C&D debris includes material, whether or not from construction work, that is generally similar to C&D debris and that is separated for reuse, that is not hazardous, that contains no putrescible wastes and that can be processed without generating any residual, provided that the material is generated by an activity that is similar to, or is directly or indirectly related to, construction work, including without limitation: manufacturing materials for use in construction work, such as wood products, clay or ceramic products, plumbing systems, electrical equipment, metal work and HVAC systems.

(f) "Construction and Demolition Wood Mulch" or "Wood Mulch" means source separated wood waste that is not compostable material (C&D mulch feedstock), including that portion of C&D debris that is lumber or wood, which has been mechanically reduced in size. C&D mulch feedstock does not include food material, animal material, biosolids, mixed solid waste, chromated copper arsenate (CCA) pressure treated wood, wood containing lead-based paint, or mixed C&D debris.

(g) "Construction Work" means construction, remodeling, repair, demolition or deconstruction of buildings, other structures, roads, parking lots, and similar paved or covered surfaces.

(h) "Emergency Construction and Demolition/Inert Debris Processing Operation" means a site that is established due to a proclamation of a state of emergency or local emergency as provided in CCR, Title 14, Division 7, Chapter 3.0, Article 3, Sections 17210.1(i) and (k).

(i) "Fully Cured Asphalt" means that the material must be at ambient temperature, be substantially hardened and be inelastic.

(j) "Handling" means the receipt, collection, transportation, storage, transfer, or processing of solid waste and recyclable materials.

(k) "Inert Debris" means solid waste and recyclable materials that are source separated or separated for reuse, do not contain hazardous waste (as defined in CCR, Title 22, Section 66261.3 et seq.) or soluble pollutants at concentrations in excess of applicable water quality objectives and do not contain significant quantities of decomposable waste. Inert debris may not contain more than 1% putrescible wastes by volume calculated on a monthly basis and the putrescible wastes shall not constitute a nuisance, as determined by the EA. Gravel, rock, soil, sand and similar materials, whether processed or not, that have never been used in connection with any structure, development, or other human purpose are not inert debris and may commingled with inert debris.

(1) "Type A Inert debris" includes but is not limited to concrete (including fiberglass or steel reinforcing bar embedded in the concrete), fully cured asphalt, glass, fiberglass,

asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay products. Type A inert debris is waste that does not contain soluble pollutants at concentrations in excess of water quality objectives and has not been treated in order to reduce pollutants. The Department, upon consultation with the State Water Resources Control Board, will determine on a case by case basis whether materials not listed in this subdivision qualify as Type A inert debris.

(2) "Type B inert debris" is solid waste that is specifically determined to be inert by the applicable RWQCB, such as treated industrial wastes and de-watered bentonite-based drilling mud, but excluding Type A inert debris.

(l) "Inert Debris Engineered Fill Operation" means a disposal activity exceeding one year in duration in which fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), brick, ceramics, clay and clay products, which may be mixed with rock and soil, are spread on land in lifts and compacted under controlled conditions to achieve a uniform and dense mass which is capable of supporting structural loading as necessary, and having other characteristics appropriate for an end use approved by all governmental agencies having jurisdiction (e.g., roads, building sites, or other improvements) where an engineered fill is required to facilitate productive use of the land. The engineered fill shall be constructed and compacted in accordance with all applicable laws and ordinances and shall be certified by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California.

(m) "Inert Debris Processing Facility" means a site that receives 1500 tons or more per operating day of any combination of Type A and Type B inert debris, or any amount of Type B inert debris, for storage, handling, transfer, or processing.

(n) "Inert Debris Type A Disposal Facility" means a site where only Type A inert debris is disposed to land. Inert debris Type A disposal facilities do not include inert debris engineered fill operations.

(o) "Inert Debris Type A Processing Operation" means a site that receives less than 1500 tons per operating day of only Type A inert debris for storage, handling, transfer, or processing.

(p) "Large Volume C&D Wood Debris Chipping and Grinding Facility" means a site that receives 500 tons per operating day or more of C&D mulch feedstock for purposes of processing it into C&D mulch.

(q) "Large Volume Construction and Demolition/Inert (CDI) Debris Processing Facility" means a site that receives 175 tons or more of any combination of C&D debris and Type A inert debris per operating day for the purposes of storage, handling, transfer, or processing.

(r) "Material Production Facility" means a facility that primarily handles raw materials to produce a new product that is a rock product operation (i.e., an "aggregate" operation), a hot mix asphalt plant, or a concrete, concrete product or a Portland cement product

manufacturing facility.

(s) "Medium Volume C&D Wood Debris Chipping and Grinding Facility" means a site that receives at least 200 tons per operating day and less than 500 tons per operating day of C&D mulch feedstock for purposes of processing it into C&D mulch.

(t) "Medium Volume Construction and Demolition/Inert (CDI) Debris Processing Facility" means a site that receives at least 25 tons per operating day and less than 175 tons per operating day of any combination of C&D debris and Type A inert debris for the purposes of storage, handling, transfer, or processing.

(u) "Physical Contaminants" means human-made inert products contained within feedstocks, including, but not limited to, glass, metal, and plastic.

(v) "Processing" means controlled separation, recovery, volume reduction, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting; chipping, grinding, shredding or baling; the use of vehicles for spreading of waste for the purpose of recovery; and the use of conveyor belts, sorting lines or volume reduction equipment.

(w) "Putrescible Wastes" means solid wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases, or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(x) "Residual" means the solid waste destined for disposal, further transfer/processing as defined in Section 17402(a)(30) or (31) of Article 6.0, or transformation which remains after processing has taken place and is calculated in percent as the weight of residual divided by the total incoming weight of materials. Notwithstanding, for the purposes of this Article, "residual" excludes any inert debris that is destined for or disposed in an inert debris engineered fill operation. Further notwithstanding, for purposes of this Article, "further transfer/processing" does not include processing that occurs at a CDI recycling center or an inert debris recycling center, as described in Section 17381.1(a) of this Article, or at a recycling center as defined at Section 17402.5(d) of Article 6.0 of this Chapter.

(y) "Separated for Reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been "source separated".

(z) "Site" means the area where the handling of solid waste and/or recyclable materials occurs at a recycling center, CDI debris processing operation or facility, inert debris processing operation or facility, or C&D wood debris chipping and grinding operation or facility.

(aa) "Site Restoration" means removing unprocessed or processed solid waste and recyclable material from the site to allow reuse of the property.

(bb) "Small Volume C&D Wood Debris Chipping and Grinding Operation" means a site that receives less than 200 tons per operating day of C&D mulch feedstock for purposes of processing it into C&D mulch.

(cc) "Small Volume Construction and Demolition/Inert (CDI) Debris Processing Operation" means a site that receives less than 25 tons of any combination of C&D debris and Type A inert debris per operating day for the purposes of storage, handling, transfer, or processing.

(dd) "Source Separated" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(ee) "Storage" means the holding or stockpiling of processed or unprocessed C&D debris, C&D mulch, inert debris or recyclable materials for a temporary period, at the end of which the material either is recycled or is transferred elsewhere. Storage of C&D debris, C&D mulch, inert debris or recyclable materials for periods exceeding the limits set in this Article is deemed to be disposal and shall be regulated as set forth in the Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste (commencing at CCR, Title 27, Division 1, Subdivision 1, Chapter 1, Article 1, Section 20005).

(ff) "Vector" includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17381.1. Activities That Are Not Subject to the Construction and Demolition/Inert Debris Regulatory Requirements.

(a) A site that receives only construction and demolition debris and inert debris (CDI) and which meets the requirements of this Section shall be classified as a CDI recycling center. A site that receives only inert debris and which meets the requirements of this Section shall be classified as an inert debris recycling center. CDI recycling centers and inert debris recycling centers shall not be subject to any other requirements of this Article except as specified in this Section.

(1) The CDI debris that a CDI recycling center receives shall have been separated at the point of generation.

(A) For the purposes of this Section, "separated at the point of generation" means that

the material has been separated from the solid waste stream by the generator of that material or by a processor prior to receipt at a CDI recycling center and has not been commingled with other solid waste or recyclable materials. For example, each material type must be transferred in separate containers to the recycling center. Notwithstanding, cardboard, lumber and metal may be commingled in a single container.

(2) An inert debris recycling center shall receive only Type A inert debris that is source separated or separated for reuse. The inert debris may be commingled in a single container.

(b) CDI recycling centers and inert debris recycling shall meet the following requirements:

(1) The residual shall be less than 10% by weight of the amount of debris received at the site, calculated on a monthly basis. Recycling center operators may report their residual percentage to the EA and the Department on Form CIWMB 607 (see Appendix A).

(2) The amount of putrescible wastes in the the CDI debris received at the site shall be less than 1% by volume of the amount of debris received at the site, calculated on a monthly basis, and the putrescible wastes shall not constitute a nuisance, as determined by the EA.

(c) Chipping and grinding of any material, or the receipt of chipped and ground material, is prohibited at CDI recycling centers.

(d) The following storage time limits apply to CDI recycling centers:

(1) CDI debris stored for more than 30 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in Section 18304.

(2) CDI debris that has been processed and sorted for resale or reuse, but remains stored on-site for more than 90 days, shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in Section 18304.

(3) Storage time limits do not apply to CDI recycling centers where a financial assurance mechanism pursuant to Section 17384(c) has been approved by the Department.

(4) At the EA's discretion, storage time limits for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(5) CDI recycling center storage time limits may be extended for a specified period, if the operator submits to the EA a storage plan as described in Section 17384(b) and if

the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing.

(e) The following storage limits apply to inert debris recycling centers:

(1) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in Section 18304.

(2) Inert debris that has been processed and sorted for resale, or reuse, but remains stored on site for more than 12 months, shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in Section 18304.

(3) Storage time limits do not apply to Type A inert debris recycling centers which are located at an inert debris engineered fill operation, an inert debris Type A disposal facility, or at a material production facility.

(4) Storage time limits do not apply to Type A inert debris recycling centers where a financial assurance mechanism pursuant to Section 17384(c) has been approved by the Department.

(5) At the EA's discretion, storage time limits for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(6) Inert debris recycling center storage limits may be extended for a specified period, if the operator submits to the EA a storage plan as described in Section 17384(b) and if the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing.

(f) Nothing in this Section precludes the EA or the Department from inspecting a site to verify that it is and has been operating in a manner that meets the requirements of this Section, or from taking any appropriate enforcement action, including the use of a Notice and Order as provided in Section 18304.

(g) In evaluating whether or not a particular site is in compliance with this Section, the EA shall, among other things, do the following:

(1) If the EA has reason to believe that each load of debris received at a recycling center is not separated at the point of generation, is not source separated or is not separated for reuse, as applicable, or that the residual exceeds 10% of the total debris received per month, or that the amount of putrescible wastes exceeds 1% by volume of

the total debris received per month, or material is being stored in excess of the applicable storage limits, or that upon request no evidence is provided by the owner and operator that the stored debris is being accumulated for viable reuse, or that the site is not in compliance with any other requirement in this Section, the EA may require the owner or operator to provide evidence that the recycling center is in compliance. The burden of proof shall be on the owner and operator of the recycling center to demonstrate it is in compliance.

(2) At the time the EA requires a recycling center to provide evidence that it is in compliance with this Section, the EA shall provide the owner and operator of the recycling center a written description of the information that has caused the EA to believe that the recycling center is not in compliance. Notwithstanding, the EA shall not be required to identify the name or other identifying information regarding any person(s) who has complained about the about the recycling center.

(h) Sites which do not meet the applicable requirements of this Section do not qualify as recycling centers and shall comply with this Article and all laws and regulations applicable to them. The burden of proof shall be on the owner and operator of a site to demonstrate that the activities at the site are not subject to the requirements of this Article.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17381.2. Regulatory Tiers Placement for CDI Debris and Inert Debris Processing Operations and Facilities

Table: Construction & Demolition and Inert Debris Tier Placement

.Not Subject To Article 5.9	Excluded Operations Tier Section 17382	EA Notification	Registration	Full Solid Waste Facility Permit
CDI Recycling Centers - Section 17381.1	Containers used to store C&D debris at the place of generation	Small Volume CDI debris processing operations (less than 25 tons per day – Section 17383.4	Medium Volume CDI debris processing facilities (25 tons per day to up to less than 175 tons per day) - Section 17383.5	Large Volume CDI debris processing facilities (175 tons per day or more) - Section 17383.6
Alternative Daily Cover at solid waste disposal facilities per 27 CCR 20680	15 cubic yards or less of separated for reuse debris	Small Volume C&D Wood Debris Chipping and Grinding Operations (less than 200 tons per day) - Section 17383.3	Medium Volume C&D Wood Debris Chipping and Grinding Facilities (200 to <500 tons per day) - Section 17383.3	Inert Debris Processing Facility (1500 tons per day or more) of any combination of Type A and Type B inert debris or any amount of Type B inert debris – Section 17383.8
Wood waste facilities pursuant to PRC 40195.1(b)	Specified chipping and grinding activities	Emergency CDI processing operations - Section 17383.9		
Inert Debris Recycling Centers - Section 17381.1	Specified Grading activities	Inert debris Type A only processing operations (less than 1500 tons per day) - Section 17383.7		

See Section 17402.5 for other Activities Not Subject to the Regulations				
Road building and specified public works activities - Section 17380(g)				

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17382. Excluded Activities.

(a) The following activities do not constitute CDI debris processing, or chipping and grinding operations or facilities for the purpose of this Article and are not required to meet the requirements set forth herein:

(1) Containers used to store C&D debris or inert debris at the place of generation.

(2) Locations where 15 cubic yards or less per day of separated for reuse material is handled.

(3) Grading or clearing of land that is consistent with local ordinances.

(4) Chipping and grinding of lumber or other wood material which meet any of the following criteria:

(A) The chipping and grinding activity handles materials derived from and applied to lands owned or leased by the same person, including a parent or subsidiary of a corporate owner; or

(B) Handling any combination of green material, additives, amendments, compost, or chipped and ground material that does not exceed 500 cubic yards on-site at any one time; or

(C) The activity is located at the site of biomass conversion as defined in PRC Section 40106 and is for use in biomass conversion at that site; or

(D) The activity is part of a silvicultural operation or a wood, paper, or wood product manufacturing operation; or

(E) The storage of bagged chipped and ground material.

(b) Nothing in this Section precludes the EA or the Department from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity, or from taking any appropriate enforcement action, including the

use of a Notice and Order. The burden of proof shall be on the owner and operator to demonstrate that the activities are excluded pursuant to this Section.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17383. State Minimum Standards.

(a) This Section sets forth minimum standards that apply to CDI debris processing, inert debris processing and C&D wood debris chipping and grinding operations and facilities.

(b) All small, medium and large CDI processing operations and facilities, inert debris processing operations and facilities and small, medium and large C&D wood debris chipping and grinding operations and facilities shall meet the State Minimum Standards requirements of CCR, Title 14, Division 7, Chapter 3.0, Article 6.2 and Sections 17406.1, 17406.2 of Article 6.1 and 17414 of Article 6.3.

(c) In addition, medium and large CDI debris processing facilities, inert debris processing facilities and medium and large volume C&D wood debris chipping and grinding facilities shall meet the State Minimum Standards requirements of CCR, Title 14, Division 7, Chapter 3.0, Article 6.35.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17383.1. Multiple Wood Debris Chipping and Grinding Activities.

All operations and facilities that receive lumber or wood material and mechanically reduce the material in size are subject to regulation under either Chapter 3 (Minimum Standards for Solid Waste Handling and Disposal) or Chapter 3.1 (Composting Operations Regulatory Requirements) and shall be further regulated as follows: If multiple waste streams, such as C&D wood debris and compostable green material, are handled at one location or site as determined by the EA, the site shall be deemed a single site and shall comply with the permitting requirements of Chapter 3, Article 5.9, Article 6.0 or Chapter 3.1 as determined by the EA. All material handled at the site shall count toward determining the appropriate regulatory tier for the operation or facility. Notwithstanding the above, each separate activity will be required to meet the State Minimum Standards applicable to the specific waste stream being handled.

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

Reference: *Sections 440053, 43020, and 43021, Public Resources Code.*

Section 17383.2. Activities at Solid Waste Facilities.

(a) C&D wood debris chipping and grinding operations and facilities and CDI debris and inert debris processing operations and facilities are not required to obtain a separate permit or meet the notification requirements of this Article if the activity is occurring at a facility that has a full solid waste facilities permit and the permit authorizes the activity either through a specific condition in the permit or as described and approved activity in

a Report of Facility Information.

(b) Notwithstanding, C&D wood debris chipping and grinding activities when located at a solid waste facility which has a full solid waste facilities permit shall satisfy the requirements of Sections 17383 and 17383.3 (b) through (k) except if material is used on site.

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

Reference: *Sections 40053, 43020, and 43021*

Section 17383.3. C&D Wood Debris Chipping and Grinding Operations and Facilities.

(a) C&D wood debris chipping and grinding operations and facilities conduct chipping and grinding activities to produce C&D mulch. Authorized chipping and grinding activities do not produce active compost, but mechanically reduce the size of lumber and other wood material to produce C&D mulch. The C&D wood debris chipping and grinding operation or facility shall satisfy the appropriate tier requirements.

(1) A small volume C&D wood debris chipping and grinding operation shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq. and shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. [Note: See section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]

(2) A medium volume C&D wood debris chipping and grinding operation shall comply with the Registration Permit tier requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq.

(3) A large volume C&D wood debris chipping and grinding facility shall comply with the Full Permit tier requirements set forth in CCR, Title 27, Division 2, Subdivision 1, Chapter 4, commencing with section 21563.

(4) To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(5) Except as otherwise specified in this section, small volume C&D wood debris chipping and grinding activities shall comply with all requirements applicable to small volume CDI debris processing operations, medium volume C&D wood debris chipping and grinding facilities shall comply with all requirements applicable to medium volume CDI processing facilities, and large volume C&D wood debris chipping and grinding facilities shall comply with all requirements applicable to large volume CDI debris processing facilities.

(b) All of the following requirements for the storage and stockpiling of C&D mulch feedstock, material being processed, and finished C&D mulch apply:

(1) Unprocessed feedstock may be stored on site prior to processing up to 30 days. Unprocessed feedstock stored for more than 30 days shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(2) C&D mulch shall be removed from the site within 90 days from processing. C&D mulch stored for more than 90 days shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(3) If the temperature of the unprocessed feedstock or C&D mulch reaches 50 degrees Celsius (122 degrees Fahrenheit), then the site shall be regulated as a compostable material handling operation or facility, as set forth in Chapter 3.1 commencing with Article 1, section 17850. The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(4) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlement), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(c) All the following requirements for the inspection of C&D mulch feedstock apply:

(1) The feedstock shall undergo load checking to ensure that physical contaminants in the feedstock are reduced to no greater than 1% of total feedstock, by weight. Load checking shall include both visual observation of incoming loads of feedstock and load sorting to quantify the percentage of contaminating materials.

(2) A minimum of 1% of daily incoming feedstock volume or at least one truckload per day, whichever is greater, shall be inspected visually. If a visual load check indicates a contamination level is potentially greater than 1%, a representative sample shall be taken, physical contaminants shall be collected and weighed, and the percentage of physical contaminants determined. The load shall be rejected if physical contaminants are greater than 1% of total weight.

(3) Upon request of the EA, the operator shall take a representative sample of feedstock, shall collect and weigh physical contaminants, and shall calculate the percentage of physical contaminants in the sample.

(4) The operator shall take adequate measures through signage, training, load checking, detection systems, and/or chemical analysis to avoid incorporating any chromated copper arsenate (CCA) pressure treated wood and lead based painted materials into C&D mulch. Such contaminated feedstock shall be stored in a designated area for handling and disposition.

(5) The operator's employees shall be adequately trained to perform the activities specified in this section.

(d) Operations and facilities producing C&D mulch shall maintain all records demonstrating compliance with this section.

(e) All C&D wood debris chipping and grinding activities shall minimize odor impacts.

(f) The operator shall provide fire prevention, protection and control measures, including, but not limited to, temperature monitoring of windrows and piles, adequate water supply for fire suppression, and the isolation of potential ignition sources from combustible materials. Fire lanes shall be provided to allow fire control equipment access to all operation areas. These requirements are in addition to the requirement for a Fire Prevention, Control and Mitigation Plan described in sections 17386(a)(19), 18223(a)(19) and 18223.5(a)(20).

(g) If C&D debris other than C&D wood debris is accepted at the site, then the site shall be regulated as a CDI processing operation or facility under this Article or under the Transfer/Processing Regulatory requirements (commencing at section 17400), as appropriate.

(h) Should the EA have reason to believe that a C&D wood debris chipping and grinding material handler is engaging in other activities that constitute or are deemed to be disposal, the burden of proof shall be on the owner and operator of the site to demonstrate otherwise.

(i) Each operator of a small volume C&D wood debris chipping and grinding operation shall file with the EA, together with its application for an EA Notification, an Operation Plan (as more fully described in section 17386 of this Article). Each operator of a medium volume C&D wood debris chipping and grinding facility shall file with the EA, together with its application for a Registration Permit, a Facility Plan (as more fully described in Article 3.2, section 18223 of this Chapter). Each operator of a large volume C&D wood debris chipping and grinding facility shall file with the EA, together with its application for a Full Permit, a Facility Report (as more fully described in Article 3.2, section 18223.5 of this Chapter). The information contained in the Plan or Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(j) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(k) Each operator shall determine the weight of all material received at the operation or facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or facility or off-site.

(l) Each operator shall maintain records in accordance with Title 14, California Code of

Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17383.4. Small Volume Construction and Demolition/Inert Debris Processing Operations.

All small volume CDI debris processing operations shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100. These operations shall be inspected by the EA at least once every three (3) months to verify compliance with minimum standards unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. [Note: See section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.] To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals. The operator shall specify the operation's boundary area in the operating record.

(a) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed and therefore subject to enforcement action, including the use of a Notice and Order as provided in section 18304.

(b) CDI debris that has been processed and sorted for resale or reuse, but remains stored on site for more than one year, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlement), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of a Small Volume CDI Processing Operation shall file with the EA, together with its application for an EA Notification, a Small Volume CDI Processing

Operation Plan (as more fully described in Article 3.2, section 17386 of this Article). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, Section 18101.

(g) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(h) C&D Mulch that is not compostable material produced at a small volume CDI processing operation must meet all requirements of a small volume C&D wood debris chipping and grinding operation, including the storage limits.

(i) Each operator shall determine the weight of all material received at the operation for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or off-site.

(j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17383.5. Medium Volume Construction and Demolition/Inert Debris Processing Facilities.

All medium volume CDI debris processing facilities subject to this Article shall comply with the Registration Permit tier requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at section 18100 et seq.

(a) The amount of residual in the C&D debris and type A inert debris shall be less than 40% of the amount of such material by weight. The residual amount is calculated on a monthly basis. Facilities which do not meet the 40% residual requirement of this subsection shall obtain a Full Permit and shall comply with the requirements applicable to a Large Volume CDI Debris Processing Facility. If the EA determines that a Medium Volume CDI Debris Processing Facility has exhibited a pattern and practice of failing to comply with the provisions of this subsection, the EA shall take appropriate enforcement action.

(b) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) CDI debris that has been processed and sorted for resale or reuse, but remains

stored on site for more than one year, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(d) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(e) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlement), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(f) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(g) Each operator of a medium volume CDI processing facility shall file with the EA, together with its application for a Registration Permit, a CDI Processing Facility Plan (as more fully described in Article 3.2, section 18223 of this Chapter). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5. Article 3.0, section 18101.

(h) Medium volume CDI debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(i) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(j) C&D Mulch that is not compostable material produced at a medium volume CDI processing operation must meet all requirements of a medium volume chipping and grinding operation, including the storage limits.

(k) If a medium volume CDI processing facility exceeds any combination of the following limitations, which are more fully described in this Section 17383.5, three (3) or more times within any two (2) year period which the EA determines constitutes a violation of this Article, then the facility no longer qualifies for a Registration Permit under this section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for a Registration Permit, and the operator must within 30 days apply for a Full Permit as if it were a large volume CDI processing facility pursuant to Section 17383.6. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. The limitations to which this subdivision applies are:

(1) Maximum amount of residual specified in Subsection 17383.5(a).

(2) Maximum tonnage received per day as specified in Subsection 17381(t).

(3) Maximum amount of material on site as specified 17383.5(d).

(l) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site.

(m) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17383.6. Large Volume Construction and Demolition/Inert Debris Processing Facilities.

All large volume CDI debris processing facilities subject to this Article shall comply with the Full Permit tier requirements set forth in Title 27, CCR, Division 2, Subdivision 1, Chapter 4, commencing with section 21450.

(a) CDI debris stored for more than 15 days that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) CDI debris that has been processed and sorted for resale, or reuse, but remains stored on site for more than one year, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlement), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of a large volume CDI processing facility shall file with the EA,

together with its application for a Full Permit, a Large Volume CDI Processing Facility Report (as more fully described in Article 3.2, section 18223.5 of this Chapter). The information contained in the Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(g) Large volume CDI debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(h) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect public health and safety.

(i) C&D Mulch that is not compostable material produced at a large volume CDI processing operation must meet all requirements of a large volume C&D wood debris chipping and grinding operation, including the storage limits.

(j) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site.

(k) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17383.7. Inert Debris Type A Processing Operations.

All inert debris Type A processing operations subject to this Article shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0 and commencing with section 18100.

(a) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) Inert debris that has been processed and sorted for resale or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlements), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) These operations shall be inspected by the EA at least once every three (3) months to verify compliance with minimum standards unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. [Note: See section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.] To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(g) The operator shall specify the operation's boundary area in the operating record.

(h) Each operator of an inert debris Type A processing operation shall file with the EA, together with its application for an EA Notification, an Inert Debris Type A Processing Operation Plan (as more fully described in Article 3.2, section 17386 of this Article). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(i) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect the public health and safety.

(j) Each operator shall determine the weight of all material received at the operation for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the operation or off-site.

(k) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Section 40053, 43020 and 43021, Public Resources Code.

Section 17383.8. Inert Debris Type A and Type B Processing Facilities.

All inert debris Type A and Type B processing facilities subject to this Article shall comply with the Full Permit tier requirements set forth in Title 27, CCR, Division 2, Subdivision 1, Chapter 4, commencing with section 21450.

(a) Inert debris stored for more than 6 months that has not been processed and sorted for resale or reuse shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(b) Inert debris that has been processed and sorted for resale or reuse, but remains stored on site for more than 18 months, shall be deemed to have been unlawfully disposed, and therefore subject to enforcement action including the use of a Notice and Order as provided in section 18304.

(c) The maximum amount of material that may be stored on the site, including unprocessed material, material that is being processed, and material that has been processed, is that amount which is the product of 30 days multiplied by the maximum amount of incoming material permitted per day.

(d) Storage time limits may be extended in accordance with sections 17384(a) (Land Use Entitlements), 17384(b) (Storage Plan), and 17384(c) (Financial Assurances) of this Article.

(e) Residual material shall be removed from the site within 48 hours or at an alternate frequency approved by the EA.

(f) Each operator of an Inert Debris Type A and Type B Processing Facility shall file with the EA, together with its application for a Full Permit, an Inert Debris Type A and Type B Processing Facility Report (as more fully described in Article 3.2, Section 18223.5 of this Chapter). The information contained in the Report shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Chapter 5, Article 3.0, section 18101.

(g) Inert debris processing facilities shall be inspected monthly by the EA in accordance with PRC section 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(h) Where the public may have access to them, the debris piles and other piles of materials on site must be stable and otherwise configured so as to protect public health and safety.

(i) Each operator shall determine the weight of all material received at the facility for handling and shall maintain records of the weight of materials in accord with State Minimum Standards. Weight shall be determined by the use of scales which may be located at the facility or off-site.

(j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17383.9. Emergency Construction and Demolition/Inert Debris Processing Operations.

(a) All emergency CDI debris processing operations shall comply with the EA Notification requirements set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, Section 18100 et. seq. Such operations may occur at locations which are not permitted solid waste facilities. These operations shall be inspected by the EA as necessary to verify compliance with minimum standards, but in no case less than monthly. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals. The operator shall specify the operation's boundary area in the operating record.

(b) In addition, the emergency CDI debris processing operations shall meet the following requirements:

(1) The land owner has certified his/her knowledge of the proposed activity and agrees to insure proper termination.

(2) The operation shall not exist for a period of time greater than 120 days from the date that the EA Notification is received by the EA. Upon receipt of the reports required by CCR, Title 14, Division 7, Chapter 3, Article 3, Section 17210.5, the operation may continue for an additional period as specified by the EA to assist in the recovery and clean-up.

(3) The operation shall receive only C&D debris and Type A inert debris in any amounts that are generated by the event that caused the state of emergency,

(4) If the operation accepts, processes, or stores hazardous or household hazardous waste, the activities must be in compliance with requirements of the Department of Toxic Substances Control and other appropriate authorities or agencies.

(c) The emergency CDI debris processing operation shall cease operation should the EA determine that any of the following occurs:

(1) The emergency CDI debris processing operation is not being used exclusively to handle the CDI debris resulting from the state of emergency;

(2) The emergency CDI debris processing operation is no longer necessary in accordance with CCR, Title 14, Division 7, Chapter 3, Article 3, Section 17210.2;

(3) The emergency CDI debris processing operation will cause or contribute to a public health, safety or environmental problem;

(4) The operator is not utilizing disaster debris diversion programs to the extent feasible.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 17383.10. Public Hearing.

Authority Cited: *Sections 40502, 43020 and 43021, Public Resources Code.*

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17384. Approval of Storage Time Limit Alternatives.

(a) At the EA's discretion, storage times for sorted and processed materials may be extended to the time specified in a land use entitlement for the site that has an express time limit for the storage of materials.

(b) Storage times at operations and facilities may be extended for a specified period, if the operator submits to the EA a storage plan as described herein and if the EA finds, on the basis of substantial evidence, that the additional time does not increase the potential harm to public health, safety and the environment. The EA may consult with other public agencies in making this determination. The extended storage term, any applicable conditions the EA imposes and the EA's findings shall be in writing. The operator must file amendments as necessary to maintain the accuracy of the storage plan. Failure to submit timely amendments may be cause for revocation of the storage limit extension. The storage plan must contain the following:

(1) Names of the operator and owner, and the key employee responsible for operation of the site;

(2) Describe the reason(s) for the storage limit extension;

(3) Describe the manner in which the material will be stored;

(4) Describe the manner in which activities are to be conducted at the facility during the period of the storage extension;

(5) Specify maximum site design capacity including the assumptions, methods, and calculations performed to determine the total site capacity;

(6) Provide information showing the types and the quantities of material to be stored. If tonnage was figured from records of cubic yards, include the conversion factor used;

(7) Identify transfer, recovery and processing equipment to be used on site, including classification, capacity and the number of units;

(8) Identify the planned method for final disposition of material stored at the site,

including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste.

(c) Storage times at operations, facilities and recycling centers may be extended if an operator provides proof of financial assurance pursuant to Title 27, Chapter 6, Subchapter 1, Section 22240 et seq. satisfactory to the board for cleanup of any operation, facility or recycling center. The amount of financial assurance shall be based on the cost estimate, in current dollars, for removal and disposal of the debris by a third party as directed by the EA. A Clean Up Plan including a cost estimate shall be prepared by the operator using form CIWMB 643 and approved by the EA. Notwithstanding, an operator is not required to provide proof of financial assurance if the third party cost to clean up the site, as identified by the operator and approved by the EA, is less than \$5,000.

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

Reference: *Sections 43020 and 43021, Public Resources Code*

Section 17384.1. Final Site Cleanup.

All operations, facilities and recycling centers shall meet the following requirements:

- (a) The operator shall provide the EA with 30 days written notice of its intent to terminate operations and perform site restoration.
- (b) The operator shall provide site restoration necessary to protect public health, safety, and the environment.
- (c) The operator shall ensure that the following site restoration procedures are performed upon completion of operations and termination of service:
 - (1) The site shall be cleaned of all solid waste and recycled materials including, but not limited to, construction and demolition and inert debris and other materials related to the operations.
 - (2) All machinery shall be cleaned and removed or stored securely.
 - (3) All remaining structures shall be cleaned of solid waste and recycled materials related to the operation.

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

Reference: *Sections 43020 and 43021, Public Resources Code*

Section 17385. Pre-Existing Permits.

(a) If an activity subject to this Article is existing under a Registration Permit or Full Permit on the effective date of this Article, that activity may continue to operate until the operator applies for and obtains the appropriate permit or satisfies the requirements for notification, as applicable, as set forth in this Article. As set forth in Section 17385(d), the EA shall notify the owner or operator what permit is required under this Article. The

operator shall obtain the required permit or satisfy the requirements for notification in the same manner and within the same time frames as set forth in subsection 17385(b). For the purposes of this Section, "existing" includes activities that are operating and activities that have not commenced operation but have received all local government land use approvals required under applicable law and have commenced physical development of the site or improvements on the site for purposes of the activity.

(b) If an activity subject to this Article is existing and does not have a Registration Permit or Full Permit on the effective date of this Article, that activity may continue to operate in substantially the same manner until the EA determines what permit or other documentation is required for the activity under this Article and notifies the owner or operator in writing of its determination. The EA shall make that determination for all facilities and operations within its jurisdiction no sooner than 30 days and no later than 90 days from the effective date of this Article. If the EA determines that a Full Permit is required, the operator shall apply for and obtain that permit within 180 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If the EA determines that a Registration Permit is required, the operator shall apply for and obtain that permit within 60 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If the EA determines that EA notification under CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at Section 18100, is required, the operator shall comply with the EA notification requirements within 30 days from the date the owner or operator receives the EA's written determination, whichever first occurs. If an activity subject to this Article fails to obtain the required permit or submit documentation for EA notification within the specified time, the EA shall take appropriate enforcement action.

(c) Notwithstanding anything to the contrary in this Article, until that date which is two (2) years from the effective date of this Article (the "Temporary Permit Expiration Date") or any extension of such Temporary Permit Expiration Date, large volume CDI debris processing facilities which are existing on the effective date of this Article may elect to obtain and operate under a temporary Registration Permit pursuant to subsection (b) above, rather than a Full Permit. Operators of facilities so electing shall obtain temporary Registration Permits in the manner as set forth in subsection (b) above. Operators of large volume CDI debris processing facilities that receive temporary Registration Permits under this subsection (c) shall apply for a Full Permit no later than one (1) year from the date the owner or operator of the facility receives notification from the EA that a Full Permit is required under this Article, whichever first occurs, as provided in subsection (b) above, and shall obtain a Full Permit no later than the Temporary Permit Expiration Date. Notwithstanding, the Temporary Permit Expiration Date may be extended by one or more periods not exceeding a total of three (3) years by the EA (the last such extension is the "Extended Temporary Permit Expiration Date") in the event that the EA finds that an operator, for reasons beyond its control, has been unable to obtain a Full Permit despite having exercised good faith and due diligence in attempting to obtain such a permit. Registration Permits obtained under this subsection (c) are temporary and shall expire no later than the Temporary Permit Expiration Date or the Extended Temporary Permit Expiration Date, whichever is applicable. The Full Permit that the operator obtains shall supercede, and cause the expiration of, the

facility's temporary Registration Permit obtained under this subsection (c). If any large volume CDI debris processing facility fails to obtain the required Full Permit within the specified time, the EA shall take appropriate enforcement action.

(d) Waste handling activities which are existing on the effective date of this Article and which handle exclusively construction and demolition wastes, as defined in Section 17225.15 of Article 4 of this Chapter, that do not qualify as C&D debris under this Article shall obtain the appropriate permit as a transfer/processing operation or facility as provided in Articles 6.0 through 6.4, inclusive, of this Chapter. Notwithstanding, such activities shall obtain the necessary permits in the same manner and within the same time frames as if they were operations or facilities subject to this Article, as specified in this Section 17385, such that limited volume transfer operations (defined at Section 17403.3) shall comply with EA notification requirements within 30 days from the date the owner or operator receives the written determination from the EA, whichever first occurs, medium volume transfer/processing facilities (defined at Section 17403.6) shall obtain a Registration Permit within 60 days from the date the owner or operator receives the written determination from the EA, whichever first occurs, and large volume transfer/processing facilities (defined at 17403.7) shall obtain a Full Permit within 180 days from the date the owner or operator receives the written determination from the EA, whichever first occurs. Large volume transfer/processing facilities which handle exclusively construction and demolition wastes may elect to obtain and operate under a temporary Registration Permit in the same manner, under the same procedures and subject to the same limitations as a large volume CDI debris processing facility under subsection 17385(c). If an activity subject to this subsection fails to obtain the required permit or submit documentation within the specified time, the EA shall take appropriate enforcement action.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17386. Operation Plans.

(a) Each operator of a small volume CDI debris processing operation, inert debris processing operation Type A, or small volume C&D wood debris chipping and grinding operation that is required to obtain an EA Notification, as set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at Section 18100 shall file with the EA, together with its EA Notification, an Operation Plan. The Plan shall contain the following:

(1) Names of the operator and owner, and the key employee responsible for operation of the site;

(2) Schematic drawing all buildings and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;

(3) Descriptive statement of the manner in which activities are to be conducted at the operation;

- (4) Days and hours that the business is to operate. If the hours of debris receipt differ from the hours of material processing, each set of hours shall be stated. For businesses with continuous operations, indicate the start of the operating day for purpose of calculating amount of debris received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (5) Total acreage contained within the operating area;
- (6) Operation design capacity including the assumptions, methods, and calculations performed to determine the total capacity;
- (7) Information showing the types and the daily quantities of debris to be received
- (8) In any calculations necessary as part of the plan, amounts shall be figured in tons. If tonnage is figured from cubic yards, include the conversion factors used as approved by the EA.
- (9) Description of the methods used by the operation to comply with each State Minimum Standard required by CCR, Title 14, Division 7, Chapter 3.0, Article 5.9;
- (10) Anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;
- (11) Description of provisions to handle unusual peak loading;
- (12) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (13) Planned method for final disposition of debris received at the operation, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste;
- (14) Planned method for the storage and removal of salvaged material;
- (15) Resume of management organization which will operate the operation;
- (16) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement; and
- (17) The operator shall retain a record of training and instruction completed in accordance with, Article 6.2, Section 17410.3.
- (18) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).

(19) Fire Prevention, Control and Mitigation Plan ("Plan") which contains the following:

(A) Description of the measures the operator will take to prevent fires and to control and extinguish fires at the site;

(B) Identification and description of the equipment the operator will have available (on site and readily available off-site) to control and extinguish fires;

(C) Description of the measures the operator will take to mitigate the impacts of any fire at the site to the public health and safety and the environment;

(D) Description of the arrangements the operator has made with the local fire control authority having jurisdiction to provide fire prevention, control and suppression;

(E) Discussion of the ability of the local fire control authority to suppress fires at the site in light of the authority's personnel, expertise and equipment, the availability of water, access to the site and to flammable materials on the site, the nature of flammable materials on site, the quantity and dimensions of materials on the site, and the potential for subsurface fires in accumulations of flammable materials on the site.

(F) Evidence that the operator has submitted the Plan to the local fire control authority for review and that the authority has found it to be in compliance with the authority's applicable requirements.

(b) The operator must file amendments as necessary to maintain the accuracy of the Plan. Failure to submit timely amendments may be cause for suspension or revocation of the EA Notification.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Article 5.95. Construction and Demolition Waste and Inert Debris Disposal Regulatory Requirements

Section 17387. Authority and Scope.

(a) Article 5.95 sets forth permitting requirements, tier requirements, and minimum operating standards for operations and facilities that dispose construction and demolition (C&D) waste and inert debris. This Article is not applicable to operations and facilities that are wholly governed in regulations elsewhere in this Chapter or Title 27.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code (PRC), as amended. These regulations should be read together with the Act.

(c) Nothing in this Article limits or restricts the power of any Federal, State, or local agency to enforce any provision of law that it is authorized or required to enforce or

administer, nor to limit or restrict local governments from promulgating laws which are as strict or stricter than the regulations contained in this Article. However, no local government may promulgate laws which are inconsistent with the provisions of this Article.

(d) No provision in this Article shall be construed as relieving any owner or operator from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including, but not limited to, local health agencies, Regional Water Quality Control Boards, Department of Toxic Substances Control, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

Authority cited: *Sections 40502, 43020, and 43021, and 48007.5 Public Resources Code.*

Reference: *Sections 40053, 43020, 43021, and 48007.5, Public Resources Code.*

Section 17387.5. Purpose.

(a) The purpose of this Article is to promote the health, safety and welfare of the people of the State of California, and to protect the environment by establishing minimum standards for the handling and disposal of C&D waste and inert debris at disposal sites.

(b) By adopting these standards, the board hereby sets forth performance standards for disposal sites which dispose C&D waste and inert debris and which are of State concern, as required by PRC Sections 43020 and 43021, and sets forth minimum substantive requirements for operator's submission of information concerning individual disposal sites.

Authority cited: *Sections 40502, 43020, and 43021, and 48007.5 Public Resources Code.*

Reference: *Sections 40053, 43020, 43021, and 48007.5, Public Resources Code.*

Section 17388. Definitions.

For the purposes of this Article, the following definitions shall apply. Additional definitions that apply to this Article are found at California Code of Regulations (CCR), Title 14, Division 7, Chapter 3, Article 6, Sections 17402 and 17402.5, and Article 4, Section 17225 and Title 27, Division 2, Chapter 2, Articles 1, and 2.

(a) "C&D" means construction and demolition, as in the term "C&D waste".

(b) "CDI" means any combination of construction and demolition waste and inert debris.

(c) "Construction and Demolition Waste" or "C&D Waste" means the nonhazardous waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures.

(d) "CDI Waste Disposal Facility" means a facility at which C&D waste, C&D waste together with inert debris (Type A or B) or inert debris (Type B) only is disposed.

(e) "Disposal" means the final deposition of C&D waste or inert debris onto land.

(f) "EA" means enforcement agency as defined in PRC Section 40130.

(g) "Engineered Fill Activity" means fill that has been designed by an engineer to act as a structural element of a constructed work and has been placed under engineering inspection, usually with density testing. An engineered fill activity shall meet specifications prepared and certified for a specific project by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California, and includes requirements for placement, geometry, material, compaction and quality control.

(h) "Fill" means gravel, rock, soil, sand, uncontaminated concrete, or fully cured asphalt in conjunction with a construction project or grading.

(i) "Fully Cured Asphalt" means that the material must be at ambient temperature, be substantially hardened and be inelastic.

(j) "Grading" means any land excavation, filling, earth moving or combination thereof.

(k) "Inert Debris" means solid waste and recyclable materials that are source separated or separated for reuse and do not contain hazardous waste (as defined in CCR, Title 22, Section 66261.3 et. seq.) or soluble pollutants at concentrations in excess of applicable water quality. Inert debris may not contain any putrescible wastes. Gravel, rock, soil, sand and similar materials whether processed or not, that have never been used in connection with any structure, development, grading or other similar human purpose, or that are uncontaminated, are not inert debris. Such materials may be commingled with inert debris.

(1) "Type A inert debris" includes but is not limited to concrete (including fiberglass or steel reinforcing bar embedded in the concrete), fully cured asphalt, crushed glass, fiberglass, asphalt or fiberglass roofing shingles, brick, slag, ceramics, plaster, clay and clay products. Type A inert debris is waste that does not contain soluble pollutants at concentrations in excess of water quality objectives and has not been treated in order to reduce such pollutants. The board, upon consultation with the State Water Resources Control Board, will determine on a case by case basis whether materials not listed in this subdivision qualify as Type A inert debris. The board and the State Water Resources Control Board may consider statewide and site-specific factors in making this determination.

(2) "Type B inert debris" is solid waste that is specifically determined to be inert by the applicable RWQCB, such as treated industrial wastes and de-watered bentonite-based drilling mud, but excluding Type A inert debris.

(l) "Inert Debris Engineered Fill Operation" means an activity exceeding one year in duration in which only the following inert debris may be used: fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ceramics, clay and clay products, which may be mixed with rock and soil. Those materials are spread on land in lifts and compacted under controlled conditions to achieve a uniform and dense mass which is capable of supporting structural loading, as necessary, or supporting other uses such as recreation, agriculture and open space in order to provide land that is appropriate for an end use consistent with approved local general and specific plans (e.g., roads, building sites, or other improvements) where an engineered fill is required to facilitate productive use(s) of the land. Filling above the surrounding grade shall only be allowed upon the approval of all governmental agencies having jurisdiction. The engineered fill shall be constructed and compacted in accordance with all applicable laws and ordinances and in accordance with specifications prepared and certified at least annually by a Civil Engineer, Certified Engineering Geologist, or similar professional licensed by the State of California and maintained in the operating record of the operation. The operator shall also certify under penalty of perjury, at least annually, that only approved inert debris has been placed as engineered fill, and specifying the amount of inert debris placed as fill. These determinations may be made by reviewing the records of an operation or by on-site inspection. Certification documents shall be maintained in the operating records of the operation and shall be made available to the EA during normal business hours. Acceptance of other Type A inert debris or shredded tires pursuant to Waste Discharge Requirements prior to the effective date of this Article does not preclude an activity from being deemed an inert debris engineered fill operation, provided that the operation meets all the requirements of this Article once it takes effect. Where such materials have been deposited, the operator must specify in the operation plan the type of waste previously accepted, a diagram of the fill area, and estimations of the depth of the fill material previously accepted. Inert debris placed in an Inert Debris Engineered Fill Operation is not counted as diversion or disposal for a given jurisdiction.

(m) "Inert Debris Type A Disposal Facility" means a site where only Type A inert debris is disposed to land. Inert debris Type A disposal facilities do not include inert debris engineered fill operations.

(n) "Landslide Debris", for the purposes of this Article, means the soil or rock or other natural material deposited on roadways, bridge decks, flood control facilities, or other structures resulting from a naturally-occurring mass movement of earth or rocks from a mountain, hill, cliff, or road cut.

(o) "Operating Record" means a readily accessible collection of records of an operation's or facility's activities in compliance with required State Minimum Standards under Title 14 and Title 27. The operating record shall include the operation plan for inert debris engineered fill operations, or the disposal facility plan or disposal facility report for facilities, and shall contain, but is not limited to: agency approvals, tonnage and load checking records, hours of operation, owner/operator contacts, and personnel training history. The record may be reviewed by State and local authorities and shall be made available during normal business hours. The records may be maintained at any

location that is easily accessible to the EA.

(p) “Putrescible Wastes” means solid wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(q) “RDSI” means Report of Disposal Site Information as described in CCR, Title 27, Section 21600.

(r) “RWQCB” means Regional Water Quality Control Board.

(s) “Separated for Reuse” means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing of those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been “source separated”.

(t) “Site” means the area where the handling of solid waste, and/or recyclable materials occurs at an operation or facility subject to this Article.

(u) “Solid waste” means the same as in PRC Section 40191.

(v) “Source Separated” means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(w) “Vector” means any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease.

Authority cited: *Sections 40502, 43020, and 43021, and 48007.5 Public Resources Code.*

Reference: *Sections 40053, 43020, 43021, and 48007.5, Public Resources Code*

Section 17388.1. Regulatory Tiers Placement for CDI Waste and Inert Debris Disposal Operations and Facilities.

Table: Construction & Demolition and Inert Debris Tier Placement

Not Subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35	Excluded Tier	Enforcement Agency Notification Tier	Registration Permit	Full Solid Waste Facility
Auto Dismantler Section 17402.5(c)(1)	Locations where <15 cubic yards of combined container volume is provided to serve as multi-residence receptacles for residential refuse at the place of generation. Section 17403.1(a)(1)	Emergency Transfer Processing Operations Section 17403.5	Medium Volume Transfer Processing Facility Section 17403.6	Large Volume Transfer/ Processing Facility Section 17403.7
Auto Shredder Operations Section 17402.5(c)(2)	Locations where <15 cubic yards of combined container volume is handled for recycling. Section 17403.1(a)(2)	Secondary Material Processing Operations Section 17403.3.2		
Buy Back Centers Section 17402.5(c)(3)	Storage receptacle at the place of generation for waste from multi-residential buildings or for commercial solid wastes. Section 17403.1(a)(3)	Sealed Container Transfer Operations Section 17403.2		
Drop-off Centers Section 17402.5(c)(4)	Containers used to store construction or demolition wastes at the place of generation. Section 17403(a)(4)	Limited Volume Transfer Operations Section 17403.3		
Manufacturers Section 17402.5(c)(5)	Containers used to store salvaged materials. Section 17403.1(a)(5)			
Recycling Centers Section 17402.5(d)	Waste Hauling Yard Operations. Section 17403.1(a)(6)			
Rendering Plants Section 17402.5(c)(6)	Storage of Other Wastes. Section 17403.1(a)(7)			

Not Subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35	Excluded Tier	Enforcement Agency Notification Tier	Registration Permit	Full Solid Waste Facility
Reuse Salvage Operations (includes furniture and mattress dismantlers and demanufacturers) Section 17402.5(c)(7)				
Scrap Metal Recyclers and Dealers Section 17402.5(c)(8)				
Wire Choppers Section 17402.5(c)(9)				
Wood, Paper, or Wood Product Manufacturer Section 17402.5(c)(10)				
Note: There are no operations or facilities placed within the Standardized tier				

Authority cited: Sections 40502, 43020, and 43021, and 48007.5 Public Resources Code.

Reference: Sections 40053, 43020, 43021, and 48007.5, *Public Resources Code*.

Section 17388.2. Excluded Activities.

(a) The following disposal activities do not constitute C&D waste or inert debris operations or facilities for the purposes of this Article and are not required to meet the requirements set forth herein:

(1) Any use (e.g., grading) of gravel, rock, soil, sand and similar, whether processed or not, that has never been used in connection with any structure, road, parking lot, or similar use.

(2) Engineered fill activities which have local permits as required, and are carried out in conjunction with a construction project (e.g., building and other construction, bridge and roadway work, development of pathways or riding trails, etc), and which use uncontaminated concrete and/or fully cured asphalt which has been reduced in particle size to 2" or less as part of a recycling activity and concludes within two years from commencement.

(3) Inert debris engineered fill activities which conclude within one year of commencement and that meet all requirements of Section 17388.3 of this Article, except subsections (b) inspections, (c) Plan, (d) State Minimum Standards, (g) final cover, (h) scales and submittal of EA Notification.

(4) Removal and disposal of landslide debris containing no C&D waste by Federal, State and local government public works agencies and their contractors, provided that the material removed from such sites is disposed in accordance with applicable law.

(5) Removal and disposal of sediment which has accumulated within irrigation or flood control facilities and which contains no solid waste, by Federal, State and local government public works agencies and their contractors, provided that the material removed from such sites is disposed or otherwise handled in accordance with applicable law.

(6) The use of fully cured asphalt, uncontaminated concrete (including steel reinforcing rods embedded in the concrete), crushed glass, brick, ceramics, clay and clay products, which may be mixed with rock and soil, in connection with road building, road repair, airport runway construction, bridge and roadway work, levee work, flood control work, and all associated activities by Federal, State and local government public works agencies and their contractors.

(7) Existing C&D waste or inert debris disposal sites from which all waste and debris have been removed (clean closure) within one year after February 24, 2004, provided that the material removed from such sites is disposed in accordance with applicable law. The board may extend the time for clean closure by up to one year upon the applicant's showing of good cause for such extension.

(b) Nothing in this Section precludes the EA or the board from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity, or from taking any appropriate enforcement action, including the use of a Notice and Order. The burden of proof shall be on the owner or operator to demonstrate that the activity is excluded pursuant to this Section.

Authority cited: *Sections 40502, 43020, and 43021, and 48007.5 Public Resources Code.*

Reference: *Sections 40053, 43020, 43021, and 48007.5, Public Resources Code.*

Section 17388.3. Inert Debris Engineered Fill Operations.

Inert debris engineered fill operations shall submit EA Notifications, as set forth in CCR,

Title 14, Section 18100 et seq. and shall comply with all applicable RWQCB waste discharge requirements.

(a) Each operator of an inert debris engineered fill operation shall submit a copy of its waste discharge requirements or a letter of exemption from the applicable RWQCB to the EA together with its notification of intent to operate.

(b) Inert debris engineered fill operations shall be inspected by the EA at least once every three

(3) months to verify compliance with State Minimum Standards unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

(c) Each operator of an inert debris engineered fill operation shall file an "Operation Plan" (as specified in this Article, Section 17390) with the EA together with its notification of intent to operate. The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in CCR, Title 14, Section 18101.

(d) All inert debris engineered fill operations shall comply with the State Minimum Standards set forth in Title 27 CCR, Division 2, Chapter 3.0, Subchapter 4, Article 1 (Operating Criteria), Article 3 (Handling, Equipment and Maintenance), and Article 4 (Controls) (except Sections 20515, 20640, 20880, and 20890).

(e) By March 1 of each year, the operator shall report to the EA and the board the total amount of inert debris deposited during the previous year. However, the operator is not subject to the disposal reporting record requirements of Title 14 CCR, Division 7, Chapter 9, Article 9.2 or the disposal fee specified in Public Resources Code Section 48000 and Revenue and Taxation Code Section 45151.

(f) All inert debris engineered fill operations, upon completion of cessation of fill activities for more than one year and upon any transfer of any part of the land subject to the operation prior to completion of fill activities, shall comply with the requirements in Title 27, subsections 21170(a)(1, 2 and, if applicable, 3).

(g) Upon the final placement of waste at the site, the operator shall cover the site of fill with three feet of compacted soil above the fill area or with other final cover as determined by the EA. The EA may determine, on the basis of substantial evidence, that a lesser amount of final cover or no final cover is needed, based on potential impacts to the public health, safety and the environment.

(h) If an inert debris engineered fill operation exceeds any combination of the following requirements three (3) or more times within any two (2) year period which the EA

determines constitutes a violation of this Article, the facility no longer qualifies for an EA Notification under this Section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for an EA Notification, and the operator must within 30 days apply for a Full Permit as if it were a CDI Waste Disposal Facility pursuant to Section 17388.5. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. Notwithstanding, the EA may at any time take any additional enforcement action the EA deems appropriate. The requirements to which this subdivision applies are:

- (1) Disposal of any wastes not authorized by subsection 17388(l);
- (2) Failure to comply with the requirements for certification by an engineer specified in subsection 17388(l);
- (3) Failure to comply with requirements for operator certification of materials disposed in the fill as required by subsection 17388(l).
 - (i) Inert debris engineered fill operations are not required to meet the notification requirements of this Article if the operation is occurring at a disposal facility that has a full solid waste facilities permit and the permit authorizes the activity either through a specific condition in the permit or as described and approved in the Report of Disposal Site Information.

Authority cited: *Sections 40502, 43020, 43021, and 48007.5, Public Resources Code.*
Reference: *Sections 43020 43021, 48007.5, Public Resources Code.*

Section 17388.4. Inert Debris Type A Disposal Facilities.

Inert debris Type A disposal facilities shall obtain Registration Permits and shall comply with the Registration Permit requirements as set forth in CCR, Title 14, Division 7, Chapter 5.0, Article 3.0 (commencing at Section 18100), with the following requirements set out in CCR, Title 27, Division 2, Chapter 4, Subchapter 3, Article 2 (commencing at Section 21570) in the same manner as if they were municipal solid waste landfills, CCR, Title 14, Division 7, Chapter 9, and with all RWQCB waste discharge requirements.

- (a) Each operator of an inert debris Type A disposal facility shall submit a copy of its waste discharge requirements or a letter of exemption from the applicable RWQCB to the EA together with its application for a Registration Permit.
- (b) Inert debris Type A disposal facilities shall be inspected monthly by the EA in accordance with Public Resources Code Section 43218.
- (c) Each operator shall file with the EA, together with its application for a solid waste facilities permit, a Disposal Facility Plan (as more fully described in CCR, Title 14, Division 7, Chapter 5, Article 3.2, Section 18223.6).

(d) Each operator must comply with the closure and postclosure maintenance requirements of Title 27, CCR, Division 2, Subchapter 5, Article 2 (commencing with Section 21099).

(e) Each operator must comply with the financial assurance requirements for closure and postclosure maintenance, operating liability and corrective action set forth in Title 27 CCR, Division 2, Chapter 6 (commencing at Section 22200).

(f) The EA shall comply with the Enforcement Agency Requirements of Title 27 CCR, Division 2, Chapter 4, Subchapter 3, Article 3, commencing with Section 21650.

(g) Inert debris Type A disposal facilities shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(h) Inert debris Type A disposal facilities shall comply with the State Minimum Standards set forth in Title 27 CCR, Division 2, Chapter 3.0, Subchapter 4, Articles 1 (Operating Criteria), Article 3 (Handling, Equipment and Maintenance), and Article 4 controls) (except Sections 20880 and 20890).

(i) Each operator shall determine the weight of all material received at the facility for disposal and shall maintain records of the weight of materials as required herein. Until February 24, 2005, weight of material shall be determined by a conversion factor authorized by the EA for each waste type received. After that date, weight shall be determined by the use of scales, which may be located at the operation or off-site. Notwithstanding, operations in a rural city or rural county, as defined in Public Resources Code Sections 40183 and 40184, and operations that will cease activities within three years from February 24, 2004, as reflected in their Operation Plan may determine the weight of materials received by use of conversion factors authorized by the EA for each waste type or combination thereof received. Evidence of the accuracy of the conversion factors shall be provided to the EA annually.

(j) If an inert debris Type A disposal facility accepts for disposal any waste not authorized by, or pursuant to, Subsection 17388(k)(1) three (3) or more times within any two (2) year period which the EA determines constitutes a violation of this Article, the facility no longer qualifies for a Registration Permit under this Section. Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for a Registration Permit, and the operator must within 30 days apply for a Full Solid Waste Facilities Permit as if it were a CDI Waste Disposal Facility pursuant to Section 17388.5. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. Notwithstanding, the EA may at any time take any additional enforcement action the EA deems appropriate.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

Section 17388.5. CDI Waste Disposal Facilities.

CDI waste disposal facilities shall obtain full solid waste facilities permits and shall comply with all requirements promulgated by the Department as set forth in CCR, Title 27, Division 2 in the same manner as if they were municipal solid waste landfill units.

(a) CDI waste disposal facilities shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(b) Each operator shall determine the weight of all material received at the facility for disposal and shall maintain records of the weight of materials as required herein. Until February 24, 2005, weight of material shall be determined by a conversion factor authorized by the EA for each waste type received. After that date, weight shall be determined by the use of scales, which may be located at the operation or off-site. Notwithstanding, operations in a rural city or rural county, as defined in Public Resources Code Sections 40183 and 40184, and operations that will cease activities within three years from February 24, 2004, as reflected in their Operations Plan may determine the weight of materials received by use of conversion factors authorized by the EA for each waste type or combination thereof received. Evidence of the accuracy of the conversion factors shall be provided to the EA annually.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

Section 17388.6. Public Hearing. [Repealed]

Section 17389. Record Keeping Requirements for Operations.

All operations shall meet the following requirements:

(a) All records required by this Article shall be maintained in a single accessible location for at least three (3) years and shall be available for inspection by authorized representatives of the Department, EA, local health agency, and other duly authorized regulatory and enforcement agencies during normal working hours.

(b) The operator shall maintain a daily log book or file describing special occurrences and methods used to resolve problems arising from these events, including details of all incidents requiring the implementation of emergency procedures. Special occurrences shall include, but are not limited to: receipt or rejection of prohibited wastes, fires, accidents, injury and property damage, flooding, earthquake damage and other unusual occurrences. The operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public

health and safety and the environment.

(c) The operator shall document any written and oral complaints received from the public, including the nature of the complaint, the date the complaint was received, the name, address, and telephone number of the person or persons making the complaint (if available), and any actions taken to respond to the complaint.

(d) The operator shall maintain an operating record which shall include, among other things, records of incoming weights or volumes and outgoing salvage or residual weights or volumes shall be kept in a form or manner approved by the EA. Such records shall be adequate for overall planning and control purposes, and be as current and accurate as practicable. These records shall be provided to the EA or the Department upon request.

(e) The operator shall record the number of load checks performed and loads rejected.

(f) The operator shall maintain a copy of the written notice to the EA and local health agency specifying the names, addresses, and telephone numbers of the operator or other persons responsible for the operation.

(g) The operator shall maintain records of employee training.

(h) If gas monitoring is conducted at the operation, the operator shall maintain records of all gas monitoring as available and as required.

(i) If water monitoring is conducted at the operation, the operator shall maintain records of all water monitoring as available and as required.

(j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

[Note: Record-keeping requirements for facilities subject to this Article are found at Title 27, Division 2, Chapter 3, Article 1, section 20510.]

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

Section 17390. Operation Plan.

Each operator of an Inert Debris Engineered Fill Operation, together with its notification of intent to operate filed pursuant to Section 17388.3 of this Article, shall file with the EA an Operation Plan. The operator must file amendments as necessary to maintain the accuracy of the Plan. A Plan shall contain the following:

(a) Name(s) of the operator, owner, and the company they represent, if applicable;

- (b) Scaled schematic drawing of the buildings and other structures showing layout and general dimensions of the operations area, including but not limited to, unloading, storage, loading, and parking areas;
- (c) Descriptive statement of the manner in which activities are to be conducted at the operation;
- (d) Days and hours of operation. If the hours of waste receipt differ from the hours of material processing, each schedule may be stated. For facilities with continuous operations, indicate the start of the operating day for the purpose of calculating the amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (e) Total acreage contained within the operating or fill areas;
- (f) Design capacity, including the assumptions, methods, and calculations performed to determine the total capacity;
- (g) Information indicating the types and daily quantities of waste or debris to be received. If tonnage is determined from records of cubic yards, include the conversion factor used in the calculation;
- (h) Description of methods used by the operation to comply with each State Minimum Standard;
- (i) Anticipated volume of quench or process water and the planned method of treatment and disposal of any wastewater;
- (j) Description of provisions to handle unusual peak loading;
- (k) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units.
- (l) Planned method for final placement of the solid waste;
- (m) Planned method for the storage and removal of salvaged material;
- (n) Resume of management organization that will operate the site.
- (o) A description of road building and seasonal tipping pad design.
- (p) A description of a program to prevent the acceptance of unapproved materials and hazardous wastes.
- (q) A description of the planned method for storage and removal of prohibited wastes.
- (r) A general description of the proposed final productive use(s), if any, of the fill area. The description shall specify generally what area(s) within the boundaries of the

operation will be capable of supporting a structure upon closure.

(s) The compaction standards for density and design, if any.

(t) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).

Authority cited: *Sections 40502, 43020, 43021, and 48007.5, Public Resources Code.*
Reference: *Sections 40053, 43020, 43021, and 48007.5, Public Resources Code.*

Article 6.0. Transfer/Processing Operations and Facilities Regulatory Requirements

Section 17400. Authority and Scope.

(a) Articles 6.0, 6.1, 6.2, 6.3, and 6.35 set forth permitting requirements and minimum operating standards for operations and facilities that receive, store, handle, recover, transfer, or process solid waste which are subject to the requirements of these Articles. The regulatory tier requirements of Sections 17403 through 17403.9 are not applicable to operations and facilities that are subject to regulations elsewhere in this Chapter, including but not limited to, Article 5.6 (commencing at Section 17360); and in Chapter 3.1 (commencing with Section 17850). Activities placed within the excluded tier in other parts of this Division, may still be subject to these regulatory requirements.

(b) These Articles are adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) These Articles implement those provisions of the Act relating to receipt, storage, handling, recovery, transfer, or processing of solid waste. Nothing in these Articles limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor to limit or restrict cities and counties from promulgating laws which are as strict or stricter than the regulations contained in these Articles. However, no city or county may promulgate laws which are inconsistent with the provisions of these Articles.

(d) No provision in these Articles shall be construed as relieving any owner, operator, or designee from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, regional water quality control boards, Department of Toxic Substances Control, California Department of Industrial Relations, Division of Occupational Safety and Health, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(e) No provision in these Articles is intended to require the owner or operator of an operation to comply with the Enforcement Agency Notification requirements, or the

owner or operator of a facility to obtain a tiered permit in accordance with Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2.0, 3.0 and 3.1 of the California Code of Regulations (commencing with Section 21570) et seq. and Title 14, Division 7, Chapter 5.0, Article 3.0, (commencing with Section 18100); if that owner or operator already has a valid full solid waste facility permit and, that permit authorizes the transfer/processing operation or facility.

(f) Notwithstanding subsection (a) of this Section, if a Chipping and Grinding Operation or Facility, as defined in Section 17852(k) of this Division, handles material that fails to meet the definition of green material due to contamination as set forth in Section 17852(u) of this Division, the operation or facility:

(1) shall be subject to these regulatory requirements,

(2) shall not be considered to be a recycling center as set forth in subsections (c) or (d) of Section 17402.5, and

(3) shall not qualify as an excluded operation as set forth in Section 17403.1.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17401. Applicability of Standards. [Repealed].

Section 17402. Definitions.

(a) For the purposes of these articles:

(0.5) "Consolidation Sites" means facilities or operations that receive solid waste for the purpose of storing the waste prior to transfer directly from one container to another or from one vehicle to another for transport and which do not conduct processing activities. Consolidation activities include, but are not limited to, limited volume transfer operations, sealed container transfer operations, and direct transfer facilities.

(1) "Contact Water" means water that has come in contact with waste and may include leachate.

(1.5) "Contamination" or "Contaminants" has the same meaning as "prohibited container contaminants" as defined in Section 18982(a)(55).

(2) "Covered Container" means a container that is covered to prevent the migration of litter from the container, excessive infiltration of precipitation, odor and leachate production, and to prevent access by animals and people; thereby controlling litter, scavenging, and illegal dumping of prohibited wastes. Covers may include, but are not limited to, tarpaulins or similar materials.

(3) "Direct Transfer Facility" means a transfer facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 150 tons of solid waste and meets all of the following requirements:

- (A) is located on the premises of a duly licensed solid waste hauling operator;
 - (B) only handles solid waste that has been placed within covered containers or vehicles prior to entering the facility and that is transported in vehicles owned or leased by that same operator;
 - (C) the facility does not handle, separate, or otherwise process the solid waste;
 - (D) no waste is stored at the facility for more than any 8-hour period;
 - (E) solid waste is transferred only once and directly from one covered container or vehicle to another covered container or vehicle so that the waste is never put on the ground or outside the confines of a container or vehicle, before, during, or after transfer. Direct transfer would not include top loading trailers where the solid waste actually leaves the confines of the collection vehicle and is suspended in air before falling into a transfer vehicle;
 - (F) all of the contents of the original transferring container or vehicle must be emptied during a single transfer; and
 - (G) any waste that may unintentionally fall outside of the containers or vehicles, is promptly cleaned up and replaced within the container or vehicle to which it was being transferred.
- (4) "DTSC" means Department of Toxic Substances Control.
- (5) "EA" means enforcement agency as defined in PRC section 40130.
- (6) "Emergency Transfer/Processing Operation" means an operation that is established because there has been a proclamation of a state of emergency or local emergency, as provided in Title 14, Division 7, Chapter 3, Article 3, sections 17210.1 (j) and (k) and which meets all of the following requirements:
- (A) the operation handles only disaster debris and other wastes, in accordance with section 17210.1(d), during the disaster debris recovery phase; and
 - (B) the location does not currently have a solid waste facility permit;
 - (C) if the operation accepts, processes, or stores hazardous or household hazardous waste, then these activities must be in compliance with DTSC standards or standards of other appropriate authorities or agencies.
- (6.5) "Gray Container Waste" or "Gray Container Collection Stream" means solid waste that is collected in a gray container that is part of a three-container organic waste collection service that prohibits the placement of organic waste in the gray container as specified in Section 18984.1(a) and (b).

(7) "Hazardous Wastes" means any waste which meets the definitions set forth in Title 22, Section 66261.3, et seq. and is required to be managed.

(7.5) "Incompatible Material" or "Incompatibles," means human-made inert material, including, but not limited to, glass, metal, plastic, and also includes organic waste for which the receiving end-user, facility, operation, property, or activity is not designed, permitted, or authorized to perform organic waste recovery activities as defined in Section 18983.1(b) of Article 2, Chapter 12.

(8) "Large Volume Transfer/Processing Facility" means a facility that receives 100 tons or more of solid waste per operating day for the purpose of storing, handling or processing the waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(9) "Limited Volume Transfer Operation" means an operation that receives less than 60 cubic yards, or 15 tons of solid waste per operating day for the purpose of storing the waste prior to transferring the waste to another solid waste operation or facility and which does not conduct processing activities, but may conduct limited salvaging activities and volume reduction by the operator.

(A) In determining the tonnage of solid waste received by the operation, the following materials shall not be included: materials received by a recycling center located within the operation, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the operation does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(10) "Litter" means all solid waste which has been improperly discarded or which has migrated by wind or equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers

constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state.

(11) "Medium Volume Transfer/Processing Facility" means a facility that receives equal to or more than 60 cubic yards or 15 tons (whichever is greater) of solid waste per operating day but less than 100 tons of solid waste, for the purpose of storing or handling the waste prior to transferring the waste to another solid waste operation or facility; or a facility that receives any amount of solid waste, up to 100 tons per operating day, for the purpose of processing solid waste prior to transferring the waste to another solid waste operation or facility.

(A) In determining the tonnage of solid waste received by the facility, the following materials shall not be included: materials received by a recycling center located within the facility, and by beverage container recycling programs in accordance with Public Resources Code sections 14511.7, 14518, or 14520, if the recycling activities are separated from the solid waste handling activities by a defined physical barrier or where the activities are otherwise separated in a manner approved by the EA.

(B) If the facility does not weigh the solid waste received, then the tonnage shall be determined by using a volumetric conversion factor where one cubic yard is equal to 500 pounds. The EA shall approve an alternate conversion factor if the operator demonstrates that it is more accurate than the required conversion factor.

(11.5) "Mixed Waste Organic Collection Stream" means organic waste collected in a container that is required by Section 18984.1, 18984.2, or 18984.3 to be transported to a high diversion organic waste processing facility.

(12) "Nuisance" includes anything which:

(A) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and

(B) affects at the same time an entire community, neighborhood or any considerable number of persons. The extent of annoyance or damage inflicted upon an individual may be unequal.

(13) "On-site" means located within the boundary of the operation or facility.

(14) "Open burning" means the combustion of solid waste without:

(A) control of combustion air to maintain adequate temperature for efficient combustion,

(B) containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(C) control of the emission of the combustion products.

(15) "Operating day" means the hours of operation as set forth in the application, Enforcement Agency Notification and/or permit not exceeding 24 hours.

(16) "Operating Record" means an easily accessible collection of records of an operation's or facility's activities and compliance with required state minimum standards under Title 14. The Record may include the Facility Plan or Transfer/Processing Report for facilities, and shall contain but is not limited to containing: agency approvals, tonnage and loadchecking records, facility contacts and training history. The record may be reviewed by state and local authorities and shall be available during normal business hours. If records are too voluminous to place in the main operating record or if the integrity of the records could be compromised by on-site storage, such as exposure to weather, they may be maintained at an alternative site, as long as that site is easily accessible to the EA.

(17) "Operations Area" means:

(A) the following areas within the boundary of an operation or facility as described in the permit application or Enforcement Agency Notification:

(i) equipment management area, including cleaning, maintenance, and storage areas; and

(ii) material and/or solid waste management area, including unloading, handling, transfer, processing, and storage areas.

(B) the boundary of the operations area is the same as the permitted boundary but may or may not be the same as the property boundary.

(18) "Operator" means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, that is listed in the permit application or Enforcement Agency Notification, is legally responsible for all of the following:

(A) complying with regulatory requirements set forth in these Articles;

(B) complying with all applicable federal, state and local requirements;

(C) the design, construction, and physical operation of the operations area;

(D) controlling the activities at an operation or facility as listed on the permit application or Enforcement Agency Notification.

(18.4) "Organic Waste Recovery Activities," or "Recovery" has the same meaning as defined in Section 18982(a)(49).

(18.5) "Organic Waste" has the same meaning as in Section 18982(a)(46).

(19) "Owner" means the person or persons who own, in whole or in part, an operation or facility, and/or the land on which it is located.

(20) "Processing" means the controlled separation, recovery, volume reduction, conversion, or recycling of solid waste including, but not limited to, organized, manual, automated, or mechanical sorting, the use of vehicles for spreading of waste for the purpose of recovery, and/or includes the use of conveyor belts, sorting lines or volume reduction equipment. Recycling Center is more specifically defined in section 17402.5 (d) of this Article.

(21) "Putrescible Wastes" include wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(22) "Regulated Hazardous Waste" means a hazardous waste, as defined in section 66260.10 of Division 4.5 of Title 22.

(23) "RWQCB" means the Regional Water Quality Control Board.

(23.5) "Remnant Organic Material" means the organic waste that is collected in a gray container that is part of the gray container collection stream.

(23.6) "Reporting Period" has the same meaning as defined in Section 18815.2 (a)(49).

(24) "Salvaging" means the controlled separation of solid waste material which do not require further processing, for reuse or recycling prior to transfer activities.

(25) "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste materials.

(26) "Sealed Container Transfer Operation" means a transfer operation that meets the following requirements:

(A) handles only solid waste that has previously been placed within containers that have either a latched, hard top or other impermeable cover which is closed tightly enough to:

(1) prevent liquid from infiltrating into or leaking out of the container; and

(2) prevent the propagation and migration of vectors; and,

(i) the solid waste remains within the unopened containers at all times while on-site; and,

(ii) the containers are not stored on-site for more than 96 hours.

Sealed container transfer operations do not include operations excluded by Public Resources Code section 40200(b)(3).

(26.5) "Secondary Material Processing Facility" or "Operation" means an activity whose primary purpose is to receive and process source separated, or separated for reuse, materials from a permitted transfer/processing facility or a transfer/processing operation governed by an enforcement agency notification, and that does not meet the residual percentage or putrescible waste percentage as set forth in section 17402.5(d). Materials include, but are not limited to, glass, plastics, paper, and cardboard.

(A) Secondary Material Processing Operations are those activities that:

1. Are governed by the Enforcement Agency Notification tier requirements as specified in section 17403.3.2; and,
2. Receive an amount of residual material that is less than 40% by weight as calculated on a monthly basis. Operations that do not meet this residual requirement shall comply with the Registration Permit tier requirements specified in 17403.3.3.

(B) Secondary Material Processing Facilities are those activities that:

1. Are governed by the Registration Permit tier requirements as specified in section 17403.3.3; and,
2. Do not meet the 40% residual material requirement as specified in subdivision (A).

(26.6) "Source Separated Organic Waste" or "Source Separated Organic Waste Collection Stream" means organic waste that is collected in a green container as specified in Sections 18984.1(a)(1) and 18984.2(a)(1), "source separated blue container organic waste," as defined in this Subsection (a)(26.7), organic waste collected in an additional container as specified in Section 18984.1(a)(6), and organic waste collected in an "uncontainerized green waste and yard waste collection service," as defined in Section 18982.

(26.7) "Source Separated Blue Container Organic Waste" means the organic wastes collected in a blue container that is limited to the collection of those organic wastes and non-organic recyclables as defined in Section 18982(a)(43).

(27) "Special Waste" includes but is not limited to:

(A) waste requiring special collection, treatment, handling, storage, or transfer techniques as defined in Title 22, section 66260.10.

(B) waste tires and appliances requiring CFC removal.

(28) "Spotter" means an employee who conducts activities that include, but are not limited to, traffic control, hazardous waste recognition and removal for proper handling, storage and transport or disposal, and protection of the public from health and/or safety hazards.

(29) "Store" means to stockpile or accumulate for later use.

(30) "Transfer/Processing Facility" or "Facility" includes:

(A) those activities governed by the Registration Permit tier or Full Solid Waste Facility Permit requirements (as specified in sections 17403.6 and 17403.7); and,

(B) which:

1.receive, handle, separate, convert or otherwise process materials in solid waste;
and/or

2.transfer solid waste directly from one container to another or from one vehicle to another for transport; and/or

3.store solid waste;

(C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste facility does not constitute solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from the solid waste activities, or where the recycling and solid waste activities are considered by the EA as separate operations.

(D) "Transfer/Processing Facilities" do not include activities specifically defined in section 17402.5(c) of this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with section 17850).

(31) "Transfer/Processing Operation" or "Operation" includes:

(A) those activities governed by the EA Notification tier requirements; and,

(B) which:

1.receive, handle, separate, convert or otherwise process materials in solid waste;
and/or

2.transfer solid waste directly from one container to another or from one vehicle to another for transport; and/or

3.store solid waste;

(C) The receipt of separated for reuse material pursuant to Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, located within a solid waste operation does not constitute solid waste handling, or processing, if there is a defined physical barrier to separate recycling activities defined in Public Resources Code, Division 12.1, Chapter 2, sections 14511.7, 14518, or 14520, from the solid waste activities, or where the recycling and solid waste activities are considered by the EA as separate operations.

(D) "Transfer/Processing Operations" do not include activities specifically defined in section 17402.5(c) of this Article, and operations and facilities that are subject to regulations in Chapter 3.1 (commencing with section 17850).

(32) "Volume Reduction" means techniques such as: compaction, shredding, and baling.

(33) "Waste Hauling Yard Operation" is an operation that meets the following requirements:

(A) is located on the premises of a duly licensed solid waste hauling operator, who receives, stores, or transfers waste as an activity incidental to the conduct of a refuse collection and disposal business, and;

(B) handles only solid waste that has been placed within a covered container before the container arrives at the waste hauling yard, and;

(C) no more than 90 cubic yards of waste is stored on-site in covered containers at any time, and;

(D) the solid waste remains within the original covered containers while on-site at any times, and;

(E) the covered containers are not stored on-site for more than any 72 hour period;

(F) if the EA has information that the operation does not meet these requirements, the burden of proof shall be on the owner or operator to demonstrate that the requirements are being met.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17402.5. Definitions and Related Provisions Regarding Activities That Are Not Subject to the Transfer/Processing Regulatory Requirements.

(a) This section sets forth definitions and related provisions regarding activities that are not subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(1) Activities that are not in compliance with the applicable definitions and related provisions of this section shall be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(2) The definitions and related provisions of this section are for use only to determine the applicability of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(b) The following general definitions may apply to one or more of the activities that are more specifically defined in subdivisions (c) and (d) of this section.

(1) "Residual" means the solid waste destined for disposal, further transfer/processing as defined in section 17402(a)(30) or (31) of this Article, or transformation which remains after processing has taken place and is calculated in percent as the weight of residual divided by the total incoming weight of materials.

(2) "Reuse" means the use, in the same, or similar, form as it was produced, of a material which might otherwise be discarded.

(3) "Separated for Reuse" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace, and includes materials that have been "source separated".

(4) "Source Separated" means materials, including commingled recyclables, that have been separated or kept separate from the solid waste stream, at the point of generation, for the purpose of additional sorting or processing those materials for recycling or reuse in order to return them to the economic mainstream in the form of raw material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace.

(c) Activities included in one of the following definitions are not subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter, provided that these activities do not include the acceptance of solid waste which has not been separated for reuse. If an activity defined in this section is accepting solid waste which has not been separated for reuse, it must meet the requirements of subdivision (d) of this section or else it shall be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(1) "Auto Dismantler" means a person or business entity engaged in the business of buying, selling, or dealing in vehicles including nonrepairable vehicles, for the purpose of dismantling the vehicles, buying or selling the integral parts and component materials thereof, in whole or in part, or dealing in used motor vehicle parts pursuant to California Vehicle Code, section 220.

(2) "Auto Shredder" or "Metal Shredder" means a person or business entity that accepts scrap metal, typically automobiles and white goods, and mechanically rends that scrap metal into fist sized bits and pieces and separates the ferrous metals, nonferrous metals and other materials for the purpose of recycling.

(3) "Buy Back Center" means a person or business entity engaging in those activities defined in Public Resources Code Sections 14518, or 14520.

(4) "Drop-off Center" means a person or business entity engaging in those activities defined in Public Resources Code Section 14511.7.

(5) "Manufacturer" means a person or business entity that uses new or separated for reuse materials as a raw material in making a finished product that is distinct from those raw materials.

(6) "Regional Organic Distribution Center" means a distribution center that receives unsold food produce, including packaged food produce (sometimes referred to as "pre-consumer") back from stores to which it was originally sent by that distribution center, and which remains the property of the distribution center or stores, for the purpose of data collection, depackaging, and transferring this produce and other food to a compostable material handling operation or facility, in-vessel digestion operation or facility, or to another beneficial use.

(7) "Rendering Activities" means an activity that is a licensed animal food manufacturing activity, or a rendering activity which is authorized by the California Department of Food and Agriculture pursuant to Section 19300 of the Food and Agricultural Code, and in which no solid waste feedstock bypasses the manufacturing or rendering process.

(8) "Reuse Salvage Operation" means a person or business entity which sterilizes, dismantles, rebuilds, or renovates, nonputrescible separated-for-reuse materials, and that recovers for recycling or reuse distinct material types that have not been commingled with other materials before they enter the waste stream. Examples of this activity include, but are not limited to, wire choppers, and dismantlers of furniture and mattresses, and "brown goods" such as computer equipment, VCRs, and televisions.

(9) "Scrap Metal Recyclers and Dealers" means a person or business entity including all employees of the person or business entity, (except automotive recyclers and auto shredders as defined in this section), whose primary business is the purchasing; processing by shredding, shearing, baling, and torching; trading, bartering or otherwise receiving secondhand or castoff metal material which includes ferrous metals, nonferrous metals, aluminum scrap, auto bodies, major appliances and other metals, including containers that are regulated pursuant to Public Resources Code Section 14511.7, 14518 or 14520.

(10) "Wire Chopper" means a person or business entity which uses source separated metal components or wire for the purpose of recycling or reuse.

(11) "Wood, Paper or Wood Product Manufacturer" means a person or business entity that uses separated for reuse paper or woody materials in order to produce a finished product able to be used as is, or to manufacture another product such as, boxes or boards, without further processing.

(d) A "Recycling Center" means a person or business entity that meets the requirements of this subdivision. A recycling center shall not be subject to the requirements of Articles 6.0, 6.1, 6.2, 6.3 and 6.35 of this Chapter.

(1) A recycling center shall only receive material that has been separated for reuse prior to receipt.

(2) The residual amount of solid waste in the separated for reuse material shall be less than 10% of the amount of separated for reuse material received by weight.

(A) The residual amount is calculated by measuring the outgoing tonnage after separated for reuse materials have been removed.

(B) The residual amount is calculated on a monthly basis based on the number of operating days.

(3) The amount of putrescible wastes in the separated for reuse material shall be less than 1% of the amount of separated for reuse material received by weight, and the putrescible wastes in the separated for reuse material shall not cause a nuisance, as determined by the EA.

(A) The amount of putrescible wastes is calculated in percent as the weight of putrescible wastes divided by the total incoming weight of separated for reuse material.

(B) The amount of putrescible wastes is calculated on a monthly basis based on the number of operating days.

(4) The only separation that may occur at the recycling center is the sorting of materials that have been separated for reuse prior to receipt.

(5) The recycling center may include an adjustment in the calculation to include the weight of water in the residual, when the use of water is essential to the sorting or processing of the material, provided that such an adjustment is also made in the weight of materials received for processing.

(6) The following materials shall not be included in calculating residual as set forth in subdivision (d)(2) of this section, if the recycling activities are separated from the material handling activities noted below by a defined physical barrier or where the activities are otherwise separated in a manner that the EA determines will keep the materials from being commingled:

(A) materials received at an on-site Buy Back Center;

(B) materials received at an on-site Drop-off Center;

(C) cannery waste;

(D) construction and demolition materials;

(E) nonhazardous contaminated soil;

(F) grease-trap pumpings;

(G) nonhazardous asbestos;

(H) nonhazardous ash;

(I) compost and compost feedstock;

(J) sewage sludge;

(K) tires.

(7) If the EA has information that material that is being received is not separated for reuse or source separated, that the residual is 10% or more of the total per month, or that the amount of putrescible wastes is 1% or more of the total per month, the burden of proof shall be on the owner or operator to demonstrate otherwise.

(A) A business that accepts loads of material that are not separated for reuse or source separated does not qualify as a recycling center.

(B) If the EA has reason to believe that a business is accepting material that is not separated for reuse or source separated due to averaging or combining of those loads with other loads of separated for reuse material, the burden of proof will be on the business to demonstrate that it is not accepting loads of mixed solid waste.

(C) If the EA has reason to believe that a business is accepting material that is not separated for reuse or source separated due to the separation of portions of the material at consecutive sites, each of which removes less than 10% residual, the burden of proof will be on the business to demonstrate that it is not accepting loads of mixed solid waste.

(D) If the EA determines that a business has exhibited a pattern and practice of failing to comply with the provisions of this subsection, the EA may issue a Notice and Order requiring the business to obtain a Registration Permit or Full Permit or comply with the Enforcement Agency Notification requirements as made applicable in sections 17403 through 17403.7 of this Article.

(E) At the time that the EA requires a recycling center to provide evidence that it is in compliance with this subdivision, the EA shall provide the recycling center with a written description of the information that has caused the EA to believe that the recycling center is not in compliance. Nothing in this requirement is intended to require the EA to identify the name or other identifying information regarding any individual(s) who have complained about the recycling center.

(F) Nothing in this section precludes the enforcement agency or the Department from the following: inspecting a business to verify that it is conducted in a manner that meets the provisions of this subsection; or, from taking any appropriate enforcement action, including the use of a Notice and Order as provided in Section 18304.

(8) Operations which do not meet the 10% residual percentage in subdivision (d)(2) of this section but which qualify as a Limited Volume Transfer Operation, shall comply with the requirements of section 17403.3 within one month of March 5, 1999.

(9) recycling center operators may voluntarily report their residual percentage to the EA and the Department using form CIWMB 607 (located in Appendix A).

(10) If the EA determines that a person or business entity purporting to operate a recycling center is not in compliance with this subsection and issues an enforcement order, that person or business entity may appeal that order in accordance with Public Resources Code section 44307.

(e) If a Chipping and Grinding Operation or Facility, as defined in section 17852(a)(10) of this Division, handles material that fails to meet the definition of green material due to contamination as set forth in section 17852(a)(21) of this Division, the operation or facility shall not be considered to be a recycling center as set forth in subsections (c) or (d) of section 17402.5

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17403.0. Regulatory Tiers Requirements for Transfer/Processing Operations and Facilities.

Sections 17403.1 through 17403.7 set forth the regulatory tier requirements (Title 14, Division 7, Chapter 5.0, Article 3.0, commencing with section 18100 or Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3 and 3.1 of the California Code of Regulations (commencing with section 21570) that apply to specified types of transfer/processing operations and facilities. These requirements are summarized in Table 1.

Table 1: Transfer/Processing Operations and Facilities Placement into the Regulatory Tiers

Not Subject to Articles 6.0, 6.1, 6.2, 6.3 and 6.35	Excluded Tier	Enforcement Agency Notification Tier	Registration Permit Tier	Full Solid Waste Facility Permit
Auto Dismantler Section 17402.5(c)(1)	Locations where <15 cubic yards of combined container volume is provided to serve as multi-residence receptacles for residential refuse at the place of generation. Section 17403.1(a)(1)	Emergency Transfer Processing Operations Section 17403.5	Medium Volume Transfer Processing Facility Section 17403.6	Large Volume Transfer/ Processing Facility Section 17403.7
Auto Shredder Operations Section 17402.5(c)(2)	Locations where <15 cubic yards of combined container volume is handled for recycling. Section 17403.1(a)(2)	Secondary Material Processing Operations Section 17403.3.2	Direct Transfer Facility Section 17403.4	
Buy Back Centers Section 17402.5(c)(3)	Storage receptacle at the place of generation for waste from multi-residential buildings or for commercial solid wastes Section 17403.1(a)(3)	Sealed Container Transfer Operations Section 17403.2	Secondary Material Processing Facility Section 17403.3.3	
Drop-off Centers Section 17402.5(c)(4)	Containers used to store construction or demolition wastes at the place of generation. Section 17403(a)(4)	Limited Volume Transfer Operations Section 17403.3		
Manufacturers Section 17402.5(c)(5)	Containers used to store salvaged materials. Section 17403.1(a)(5)			
Recycling Centers Section 17402.5(d)	Waste Hauling Yard Operations. Section 17403.1(a)(6)			
Regional Organic Distribution Centers Section 17402.5(c)(6)	Storage of Other Wastes. Section 17403(1)(a)(7)			
Rendering Activities Section 17402.5(c)(7)				

Reuse Salvage Operations (includes furniture and mattress dismantlers and demanufacturers) Section 17402.5(c)(8)				
Scrap Metal Recyclers and Dealers Section 17402.5(c)(9)				
Wire Choppers Section 17402.5(c)(10)				
Wood, Paper, or Wood Product Manufacturer Section 17402.5(c)(11)				

Note: There are no operations or facilities placed within the Standardized tier.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17403.1. Excluded Operations.

(a) The following operations do not constitute transfer operations or facilities for the purposes of these Articles and are not required to meet the requirements set forth herein:

- (1) Locations where 15 cubic yards or less of combined container volume is provided to serve as multi-residence receptacles for residential refuse and are located at the place of generation; or
- (2) Locations where 15 cubic yards or less of combined container volume of separated for reuse material is handled for recycling; or
- (3) Storage receptacles at the place of generation for waste from multi-residential buildings or for commercial solid wastes at the place of generation; or
- (4) Containers used to store construction or demolition wastes at the place of generation; or
- (5) Containers used to store salvaged materials; or

(6) Waste Hauling Yard Operations; or

(7) Storage and handling of any of the following wastes:

(8) A Publicly Owned Treatment Works Treatment Plant (POTW Treatment Plant), as defined in Section 403.3(r) of Title 40 of the Code of Federal Regulations, that receives vehicle-transported solid waste that is an anaerobically digestible material for the purpose of anaerobic co-digestion with POTW Treatment Plant wastewater, in accordance with Section 17896.6(a)(1).

(A) Municipal solid waste removed from seagoing vessels that is quarantined in accordance with 7 Code of Federal Regulations Section 330.400 and 9 Code of Federal Regulations Section 94.5;

(B) Controlled substances confiscated by law enforcement agencies, including, but not limited to seized narcotics and other contraband;

(C) Agricultural wastes with possible pest contamination;

(D) Dead animals with possible infectious diseases;

(E) U.S. Currency which must be destroyed; or

(F) Confidential records destruction, including microfiche, and microfilm;

(G) As determined by the EA, other discrete waste streams that are already subject to stricter handling requirements under Federal or State law.

(b) Nothing in this Section precludes the EA from inspecting an excluded operation to verify that the operation is being conducted in a manner that qualifies it as an excluded operation or from taking any appropriate enforcement action. The burden of proof shall be on the owner or operator to demonstrate that the operations are excluded pursuant to this Section.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.2. Sealed Container Transfer Operations.

All sealed container transfer operations subject to this Article shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of California Code of Regulations (commencing with Section 18100). These operations shall be inspected by the EA at least once every three (3) months, to verify compliance with minimum standards unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements*

regarding the approval or denial of requests for reducing the frequency of inspections.]
The operator shall specify the operation's boundary area in the operating record.

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

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17403.3. Limited Volume Transfer Operations.

All limited volume transfer operations subject to this Article shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18100). These operations shall be inspected by the EA at least once every three (3) months to verify compliance with minimum standards unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*
The operator shall specify the operation's boundary area in the operating record.

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

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17403.3.1. Glass Container Processing Operations. [Repealed]

Section 17403.3.2. Secondary Material Processing Operations.

(a) All Secondary Material Processing Operations subject to this Article shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18100).

(1) These operations shall be inspected within 30 days of the effective date of this regulation. Thereafter, these operations shall be inspected by the EA at least once quarterly to verify compliance with minimum standards, unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment, but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of request for reducing the frequency of inspections.]*

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

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17403.3.3. Secondary Material Processing Facilities.

(a) All Secondary Material Processing Facilities subject to this Article shall comply with the Registration Permit requirements set forth in Title 14, Division 7, Chapter 5.0, Article

3.0 of the California Code of Regulations (commencing with Section 18104).

(1) These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.4. Direct Transfer Facility.

All direct transfer facilities subject to this Article shall comply with the Registration Permit requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18104). These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.5. Emergency Transfer/Processing Operations.

(a) All emergency transfer/processing operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18100). These operations shall be inspected by the EA as necessary to verify compliance with minimum standards, but in no case shall the frequency be less than monthly. The operator shall specify the operation's boundary area in the operating record.

(b) In addition, the emergency transfer/processing operations shall meet the following requirements:

(1) the land owner has certified his/her knowledge of the proposed activity and agrees to ensure proper termination, and;

(2) The operation shall not exist for a period of time greater than 120 days from the date that the Enforcement Agency Notification is received by the EA. Upon receipt of the reports required by Section 17210.5, the operation may continue for an additional period as specified by the EA to assist in the recovery and clean-up as necessary from a state or local emergency.

(c) The emergency transfer/processing operation shall cease operation should the EA determine that any of the following occurs:

(1) the emergency transfer/processing operation is not being used exclusively to handle the state or local emergency;

(2) the emergency transfer/processing operation is no longer necessary in accordance with Section 17210.2 of this Division;

(3) the use of the emergency transfer/processing operation will cause or contribute to a

public health and safety or environmental problem;

(4) the operator is not utilizing disaster debris diversion programs to the extent feasible.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.6. Medium Volume Transfer/Processing Facilities.

All medium volume transfer/processing facilities subject to this Article shall comply with the Registration Permit requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18104). These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.7. Large Volume Transfer/Processing Facilities.

All large volume transfer/processing facilities subject to Articles 6.0 through 6.35 shall obtain a Full Solid Waste Facilities Permit, in accordance with the procedures set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3, and 3.1 of the California Code of Regulations (commencing with Section 21570). The Transfer/Processing Report required by Section 18221.6 shall constitute the Report of Facility Information required by Section 21570(f)(2) of Title 27. These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.8. Facility Plan.

Each operator of a Medium Volume Transfer/Processing Facility, as defined in Section 17402(a)(11), or a Direct Transfer Facility, as defined in Section 17402(a)(3), or a Secondary Material Processing Facility, as defined in Section 17403.3.3, shall file with the EA a "Facility Plan" or "Plan" (as specified in Section 18221.5). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in Title 14, Division 7, Chapter 5.0, Article 3.0, Section 18101.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17403.9. Transfer/Processing Report.

(a) Each operator of a Large Volume Transfer/Processing facility, as defined in Section 17402(a)(8), shall file with the EA a "Transfer/Processing Report" or "Report" (as specified in Section 18221.6). The Transfer/Processing Report will be used in place of the Report of Station Information (RSI) after March 5, 1999. Any operator of an existing facility who submits an application package to the EA, pursuant to Title 27, Section

21570, which proposes to change the facility's operations, or to change the solid waste facility permit shall do one of the following:

(1) submit the updated information as an amendment to the existing RSI or in the form of the Transfer/Processing Report; or

(2) submit a complete Transfer/Processing Report as described in Section 18221.6.

(b) After March 5, 1999, any operator of a new facility that submits an application package to the EA pursuant to Title 27, Section 21570, shall submit a complete Transfer/Processing Report pursuant to Section 18221.6.

(c) These requirements do not apply to those facilities which have filed an RSI and an application for a solid waste facility permit prior to March 5, 1999. In the event the EA determines the application package for the RSI first submitted prior to March 5, 1999 to be incomplete, additional information requested shall be submitted as part of the RSI and/or application for a solid waste facility permit, as appropriate.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17405. Applicability of State Minimum Standards.

(a) Articles 6.0, 6.1, 6.2, and 6.3 of this Chapter set forth the minimum standards that apply to all transfer/processing operations and facilities, direct transfer facilities, sealed container operations, limited volume transfer operations, secondary material processing facilities and operations, and emergency transfer/processing operations, except as noted in Section 17400(a).

(b) Article 6.35 of this Chapter sets forth additional minimum standards that will apply only to transfer/processing facilities and secondary material processing facilities.

(c) Approvals, determinations and other requirements that the EA is authorized to make in Articles 6.0, 6.2, 6.3, and 6.35 shall be provided in writing by the EA to the operator. The operator shall place a copy of these approvals in addition to those records identified in Sections 17414 and 17414.1 in the operating record.

(d) Some of the standards contained in Articles 6.0, 6.1, 6.2, 6.3, and 6.35 of this Chapter allow the EA to approve an alternative method of compliance with the standard. These provisions are not intended to allow the EA to change the particular standard, but are intended to allow the EA flexibility to approve, in advance, an alternative method of meeting the existing standard. For facilities that require a full solid waste facility permit, the EA may choose to include the approved method as a term and condition of the solid waste facility permit, rather than in the manner authorized by subdivision (c) of this Section. If the method is included in the solid waste facility permit, a change to the method may require a revision to the solid waste facility permit in accordance with the procedures set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3, and 3.1 (commencing with Section 21570).

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Article 6.1. Siting and Design

Section 17406.1. Siting on Landfills.

(a) Operations and facilities or portions thereof, located atop fully or partially closed solid waste landfills shall meet postclosure land use requirements pursuant to Title 27, California Code of Regulations, Section 21190.

(b) Operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall locate operations areas on foundation substrate that is stabilized, either by natural or mechanical compaction, to minimize differential settlement, ponding, soil liquefaction, or failure of pads or structural foundations.

(c) Operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall be operated in a manner not to interfere with the operations of the landfill or with the closure or postclosure maintenance of the landfill.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17406.2. General Design Requirements.

(a) The design of a new operation or facility shall utilize expert advice, as appropriate, from persons competent in engineering, architecture, landscape design, traffic engineering, air quality control, and design of structures.

(b) The design shall be based on appropriate data regarding the expected service area, anticipated nature and quantity of wastes to be received, climatological factors, physical settings, adjacent land use (existing and planned), types and number of vehicles anticipated to enter the operation or facility, adequate off-street parking facilities for transfer vehicles, drainage control, the hours of operation and other pertinent information. If the operation or facility is to be used by the general public, the design shall take account of safety features that may be needed to accommodate such public use.

(c) The operation or facility shall be designed in such a manner as to restrict the unloading area to as small an area as practicable, provide adequate control of windblown material, minimize the propagation or attraction of flies, rodents or other vectors and the creation of nuisances by reason of solid wastes being handled at the operation. Other factors which shall be taken into consideration are: dust control, noise control, public safety, and other pertinent matters related to the protection of public health at the operation or facility.

(d) In reviewing the design of a proposed operation or facility, the EA may require the applicant to describe how he or she has complied with applicable local and state

requirements regarding odor control measures, personnel health and safety, and sanitary facilities.

(e) Solid waste storage containers shall be durable, easily cleanable, designed for safe handling, and constructed to prevent loss of wastes from the container during storage. If such a container is used to store garbage, other wet or liquid producing wastes, or wastes composed of fine particles, such container shall in all cases be nonabsorbent and leak-resistant. Unloading areas shall be easily cleanable, designed for safe handling and constructed to prevent loss of wastes.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Article 6.2 Operating Standards

Section 17407.1. Burning Wastes and Open Burning.

(a) If burning wastes are received at an operation or facility, they shall be separated from other wastes and deposited in a safe area, spread, and extinguished. A safe area is defined as being away from unloading, transfer, or processing areas, structures on adjacent properties and other fire hazard areas.

(b) Open burning of solid waste, except for the infrequent burning of agricultural wastes, silvicultural wastes, land clearing debris, diseased trees, or debris from emergency clean-up operations, or any other wastes as approved by local regulatory agencies, approved by the EA, local air district, and local fire department, is prohibited at all operations and facilities.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17407.2. Cleaning.

(a) Operations, facilities, and their equipment, boxes, bins, pits and other types of containers shall be cleaned using the following schedule, or at a lesser frequency, approved by the EA, in order to prevent the propagation or attraction of flies, rodents, or other vectors:

(1) all operations and facilities shall be cleaned each operating day of all loose materials and litter;

(2) all operations or facilities that operate 24 hours per day must clean the operations or facilities at least once every 24 hours.

(b) The entrance and exit shall be cleaned at a frequency which prevents the tracking or off-site migration of waste materials.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17407.3. Drainage Control.

(a) Drainage at all operations and facilities shall be controlled to:

- (1) minimize the creation of contact water;
- (2) prevent to the greatest extent possible given existing weather conditions, the uncontrolled off-site migration of contact water;
- (3) protect the integrity of roads and structures;
- (4) protect the public health; and
- (5) prevent safety hazards and interference with operations.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17407.4. Dust Control.

(a) The operator shall take adequate measures to minimize the creation, emission, or accumulation of excessive dust and particulates, and prevent other safety hazards to the public caused by obscured visibility. The operator shall minimize the unnecessary handling of wastes during processing to prevent the creation of excessive dust. Measures to control dust include, but are not limited to: reduced processing, periodic sweeping and cleaning, misting systems or ventilation control. One or more of the following may be an indication that dust is excessive:

- (1) safety hazards due to obscured visibility; or
- (2) irritation of the eyes; or
- (3) hampered breathing;
- (4) migration of dust off-site.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17407.5. Hazardous, Liquid, and Special Wastes.

(a) An operation or facility shall not intentionally accept or store hazardous wastes, including batteries, oil, paint, and special wastes, unless it has been approved to handle the particular waste by the appropriate regulatory agencies. Such approvals shall be placed in the operating record.

(b) At operations and facilities where unauthorized hazardous wastes are discovered, control measures as are necessary to protect public health, safety and the environment,

such as elimination or control of dusts, fumes, mists, vapors or gases shall be taken prior to isolation or removal from the operation or facility,

(c) Liquid wastes and sludges shall not be accepted or stored at an operation or facility unless the operator has written approval to accept such wastes from the appropriate agencies and the EA. The EA shall authorize acceptance of these wastes only if the operation, facility, and the transfer vehicles are properly equipped to handle such wastes in a manner to protect public health, safety, and the environment.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, *Public Resources Code*.

Section 17407.6. Liquid Wastes. [Repealed]

Section 17408.1. Litter Control.

Litter at operations and facilities shall be controlled, and routinely collected to prevent safety hazards, nuisances or similar problems and off-site migration to the greatest extent possible given existing weather conditions.

Authority cited: Sections 40502, 43020, and 43021, *Public Resources Code*.
Reference: Sections 40053, 43020 and 43021, *Public Resources Code*.

Section 17408.2. Medical Wastes.

Medical waste, unless treated and deemed to be solid waste, which is regulated pursuant to the Medical Waste Management Act (commencing with Section 117600 of the Health and Safety Code), shall not be accepted at an operation or facility, unless approved by the appropriate regulatory agency.

Authority cited: Sections 40502, 43020, and 43021, *Public Resources Code*.
Reference: Sections 40053, 43020 and 43021, *Public Resources Code*.

Section 17408.3. Noise Control.

Noise shall be controlled to prevent health hazards and to prevent nuisance to nearby residents. Measures to control noise include but are not limited to: posting of warning signs that recommend or require hearing protection; separation by barriers that limit access to authorized personnel only; or, enclosures to reduce noise transmission. Compliance with specific provisions regarding noise control in a local land use approval, such as a conditional use permit or CEQA mitigation measures, shall be considered compliance with this standard.

Authority cited: Sections 40502, 43020, and 43021, *Public Resources Code*.
Reference: Sections 40053, 43020 and 43021, *Public Resources Code*.

Section 17408.4. Non-Salvageable Items.

Drugs, cosmetics, foods, beverages, hazardous wastes, poisons, medical wastes, syringes, needles, pesticides and other materials capable of causing public health or

safety problems shall not be salvaged at operations or facilities unless approved by the local health agency and the EA.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17408.5. Nuisance Control.

Each operation and facility shall be conducted and maintained to prevent the creation of a nuisance. Compliance with specific provisions regarding nuisance control in a local land use approval, such as a conditional use permit or CEQA mitigation measures, shall be considered compliance with this standard.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17408.6. Maintenance Program.

All aspects of the operation or facility shall be maintained in a state of good repair. The operator shall implement a preventative maintenance program to monitor and promptly repair or correct deteriorated or defective conditions.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17408.7. Personnel Health and Safety.

The Injury, Illness, and Prevention Program (IIPP) shall be available for review by local and state inspectors during normal business hours. Nothing in this Section is intended to make the EA responsible for enforcing the IIPP.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17408.8. Protection of Users.

An operation or facility shall be designed, constructed, operated, and maintained so that contact between the public and solid wastes is minimized. This may be accomplished through the use of railings, curbs, grates, fences, and/or spotters.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17409.1. Roads.

All on-site roads and driveways shall be designed and maintained to minimize the generation of dust and tracking of soil onto adjacent public roads. Such roads shall be kept in safe condition and maintained to allow vehicles utilizing the operation or facility to have reasonable all-weather access to the site.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17409.2. Sanitary Facilities.

The operator shall maintain all sanitary and hand-washing facilities in a reasonably clean and adequately supplied condition.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17409.3. Scavenging and Salvaging.

Each operation or facility shall meet the following requirements:

(a) scavenging shall be prohibited;

(b) salvaging of materials, such as metal, paper, glass and cardboard is permitted as an integral part of the operation, subject to conditions established by the EA, the local land use authority, or other approving agencies.

(c) salvaging activities shall be conducted in a planned and controlled manner and not interfere with other aspects of site operation and controlled to prevent health, safety, or nuisance problems. Activities shall be conducted so as not to interfere with expeditious entry and exit of vehicles delivering waste to the transfer or processing operation or facility. Salvaging activities conducted at a transfer/processing operation or facility, except for secondary material processing facilities and operations, shall be confined to specified, clearly identified areas of the operation or facility.

(d) storage of materials salvaged from solid wastes shall be ancillary to the activities of the operation or facility unless such storage is planned as an integral part of the operation, such as at a secondary material processing facility or operation. Materials salvaged on-site shall be stored away from other activity areas in specified, clearly identifiable areas as noted in the Facility Plan or Transfer/Processing Report. Storage of material salvaged at a secondary material processing facility or operation shall be separate from waste processing areas. At all facilities and operations, storage of salvaged materials shall be arranged to minimize risk of fire, health and safety hazard, vector harborage, or other hazard or nuisance, and limited to a specified volume and/or duration as described in the Enforcement Agency Notification, Facility Plan, or Transfer/Processing Report.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17409.4. Signs.

(a) For operations or facilities not open to the public, each point of access from a public road shall be posted with an easily visible sign indicating the operation or facility name and location of nearest public operation or facility.

(b) If the operation or facility is open to the public, there shall be an easily visible sign at all public entrances indicating the name of the operator, the operator's telephone number, schedule of charges, hours of operation, and a listing of the general types of materials which either (1) WILL be accepted, or (2) WILL NOT be accepted.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17409.5. Loadchecking.

(a) The operator of an attended operation or facility shall implement a loadchecking program to prevent the acceptance of waste which is prohibited by this Article. This program must include at a minimum:

(1) the number of random loadchecks to be performed;

(2) a location for the storage of prohibited wastes removed during the loadchecking process that is separately secured or isolated;

(3) records of loadchecks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. A copy of the loadchecking program and copies of the loadchecking records for the last year shall be maintained in the operating record and be available for review by the appropriate regulatory agencies.

Note:

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

Reference: *Sections 40053, 42652.5, 43020, and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.*

Section 17409.5.1. Organic Waste Recovery Efficiency.

(a) This section applies to transfer/processing facilities and operations that conduct processing activities.

(b) For the purposes of compliance with the reporting requirements in Section 18815.5, and demonstrating that the facility is a "high diversion organic waste processing facility" as defined in Section 18982(a)(33) that meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent on and after January 1, 2022 and 75 percent on and after January 1, 2025 as determined in Section 18815.5(e), the operator shall conduct the measurements described in this section.

(c) The operator shall:

(1) Determine the sum of outgoing weights of organic waste recovered from the mixed waste organic collection stream by adding together the weights determined pursuant to Section 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 landfill disposal by adding together the weights as measured pursuant to Section 17409.5.3(b)(5) for each operating day that measurements were conducted during the reporting period.

(3) Report the sums of Subdivisions (c)(1) and (c)(2) to the Department pursuant to Section 18815.5.

(d) The operator shall additionally:

(1) Determine the sum of outgoing weights of organic waste recovered from the source separated organic waste collection stream by adding together the weights determined pursuant to Section 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 organic waste collection stream that is sent for landfill disposal by adding together the weights as measured pursuant to Section 17409.5.5(b)(5) for each operating day that measurements were conducted during the reporting period.

(3) Report the sums of Subdivisions (d)(1) and (d)(2) to the Department pursuant to Section 18815.5.

(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).

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.2. Measuring Organic Waste Recovered from Mixed Waste 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.

(1) The measurements required pursuant to this section shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol required in Subdivision (b) over ten (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 where sampling is performed shall be a ~~consecutive~~ 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply with Subdivision (a) by using the following protocol:

(1) On each sampling day take one sample of at least two hundred (200) pounds from each organic waste type separated after processing at the operation or facility on that operating day prior to sending to a destination for end-use, recovery, or further processing. Each sample shall be:

(A) Representative of a typical operating day; and

(B) A random, composite sample taken either from various times during the operating day or from various locations within each pile of each of the organic waste types separated after processing.

(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 that organic waste type that is separated after processing for end-use, recovery or further processing.

(3) For each sample, remove any incompatible material and determine the remaining weight of organic waste in that sample.

(4) Then determine a ratio for each type of organic waste in the mixed waste organic collection stream by dividing the total weight from Subdivision (b)(3) by the total weight recorded in Subdivision (b)(2).

(5) Multiply the ratio determined for each type of organic waste type pursuant to Subdivision (b)(4) by the total weight of all of the same type of organic waste separated after processing and destined for end-use, recovery or further processing

(6) Determine the total weight of organic waste separated from the mixed waste organic collection stream for recovery by adding the sum of all the weights calculated pursuant to Subdivision (b)(5).

(c) The operator shall conduct a measurement in the presence of the EA when requested.

(d) 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.

(e) If the operator sends any material to a POTW that is not authorized to receive, pursuant to Section 17896.6(a)(1)(C) or (D), that material shall be deemed to constitute landfill disposal pursuant to Section 18983.1(a)(3), and the weight of that material shall be added to the total weight calculated pursuant to Section 17409.5.3.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 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.

(1) The measurements required pursuant to this section shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol required in Subdivision (b) over ten (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 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply with Subdivision (a) by using the following protocol:

(1) On each sampling day, take one sample of at least two hundred (200) pounds of the material removed from mixed waste organic collection stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be:

(A) Representative of a typical operating day; and

(B) A random, composite sample taken either from various times during the operating day or from various locations within the pile(s) of material that will be sent to disposal.

(2) Record the total weight of the sample. If the total weight of the materials removed from the mixed waste organic collection stream in a single operating day is less than 200 pounds, the operator shall sample the stream that will be sent to disposal.

(3) Remove any incompatible material and determine the remaining weight of the organic waste in the sample.

(4) Then determine the ratio of organic waste present in the materials removed from the mixed waste organic collection stream for disposal by dividing the total weight from Subdivision (b)(3) by the total weight recorded in Subdivision (b)(2).

(5) Determine the total weight of organic waste removed from the mixed organic collection stream that is sent to disposal by multiplying the ratio determined pursuant to Subdivision (b)(4) by the total weight of the materials removed from the mixed waste organic collection stream for disposal.

(c) The operator shall conduct a measurement in the presence of the EA when requested.

(d) 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.

(e) The operator shall maintain records of measurements and the training of personnel in evaluating the amount of organic waste in the material removed from mixed waste organic collection stream for disposal.

(f) For the purposes of this section "disposal" has the same meaning as "Activities that constitute landfill disposal" as defined in Section 18982.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 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.

(1) The measurements required pursuant to this section shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol required in Subdivision (b) over ten (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 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply with Subdivision (a) by using the following protocol:

(1) On each sampling day take one sample of at least two hundred (200) pounds from each organic waste type separated after processing at the operation or facility on that operating day prior to sending to a destination for end-use, recovery, or further processing. Each sample shall be:

(A) Representative of a typical operating day; and

(B) A random, composite sample taken either from various times during the operating day or from various locations within each pile of each of the organic waste types separated after processing.

(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 that organic waste type that is separated after processing for end-use, recovery or further processing.

(3) For each sample, remove any incompatible material and determine the remaining weight of organic waste in that sample.

(4) Then determine a ratio for each type of organic waste in the source separated organic waste collection stream by dividing the total weight from Subdivision (b)(3) by the total weight recorded in Subdivision (b)(2).

(5) Multiply the ratio determined for each type of organic waste type pursuant to Subdivision (b)(4) by the total weight of all of the same type of organic waste separated after processing and destined for end-use, recovery or further processing.

(6) Determine the total weight of organic waste separated from the source separated organic waste collection stream for recovery by adding the sum of all the weights calculated pursuant to Subdivision (b)(5).

(c) The operator shall conduct a measurement in the presence of the EA when requested.

(d) 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.

(e) If the operator sends any material to a POTW that is not authorized to receive, pursuant to Section 17896.6(a)(1)(C) or (D), that material shall be deemed to constitute landfill disposal pursuant to Section 18983.1(a)(3), and the weight of that material shall be added to the total weight calculated pursuant to Section 17409.5.5.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 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.

(1) The measurements required pursuant to this section shall be conducted at the following frequency:

(A) For each reporting period, the operator shall perform the sampling protocol required in Subdivision (b) over ten (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 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(b) The operator shall comply with Subdivision (a) by using the following protocol:

(1) On each sampling day take one sample of at least two hundred (200) pounds of the materials removed from source separated organic waste collection stream at the operation or facility on that operating day prior to sending to disposal. Each sample shall be:

(A) Representative of a typical operating day; and

(B) A random, composite sample taken either from various times during the operating day or from various locations within the pile(s) of material that will be sent to disposal.

(2) Record the total weight of the sample. If the total weight of the materials removed from the source separated organic waste collection stream in a single operating day is less than 200 pounds, the operator shall sample the stream that will be sent to disposal.

(3) Remove any incompatible material and determine the remaining weight of the organic waste in the sample.

(4) Then determine the ratio of organic waste present in the material removed from the source separated organic waste collection stream for disposal by dividing the total weight from Subdivision (b)(3) by the total weight recorded in Subdivision (b)(2).

(5) Determine the total weight of organic waste removed from the source separated organic waste collection stream that is sent to disposal by multiplying the ratio determined pursuant to Subdivision (b)(4) by the total weight of the materials removed from the source separated organic waste collection stream for disposal.

(c) The operator shall conduct a measurement in the presence of the EA when requested.

(d) 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.

(e) For the purposes of this section "disposal" has the same meaning as "Activities that constitute landfill disposal" as defined in Section 18982.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.6. Source Separated Organic Waste Handling.

(a) Source separated organic waste processing shall be kept separate from other solid waste streams.

(1) Remnant organic material separated from the gray container collection stream for recovery can be combined with organic material removed from the source separated organic waste collection stream for recovery once the material from the source separated organic waste collection stream has gone through the measurement protocol described in Section 17409.5.4.

(2) Construction and Demolition Debris, as defined in Section 17381, 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 Sections 17409.5.1- 17409.5.5 and 17409.5.8.

(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 consistent with Section 17410.1 and either:

(A) Transported only to another solid waste facility or operation for additional processing, composting, in-vessel digestion, or other recovery as specified in Section 18983.1; or

(B) Used in a manner approved by local, state, and federal agencies having appropriate jurisdiction.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021 Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.7. Gray Container Waste Evaluations.

(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 on 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:

(1) Take one sample of at least 200 pounds from the incoming gray container collection stream received by the facility. Each sample shall be:

(A) Representative of a typical operating day; and

(B) A random, composite sample taken from various times during the operating day.

(2) Record the weight of the sample.

(3) For that sample, 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 by dividing the total weight from Subdivision (a)(3) by the total weight recorded in Subdivision (a)(2).

(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 subject to this section does not process the material prior to its transfer offsite for the waste evaluation.

(1) The results of an offsite gray container waste evaluation performed under Subdivision (d) shall be reported by the transfer/processing operation or facility subject to this section as required in Section 18815.5 and shall not be reported by the alternative solid waste facility or operation.

(e) The operator shall conduct a measurement in the presence of the EA when requested.

(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.

(g) The operator shall maintain records of waste evaluations and the training of personnel in evaluating the amount of remnant organic material. These records shall be maintained for five (5) years in the operating record and be available for review by the EA and other duly authorized regulatory agencies.

Note:

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

Reference: Sections 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 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:

(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.

(b) The operator shall measure compliance with Subdivision (a) by using the following protocol:

(1) Use the same samples taken to comply with Sections 17409.5.2 and 17409.5.4 and the same total weight of each of those samples.

(2) For each sample, remove any incompatible material and determine the weight of the incompatibles in that sample.

(3) Then determine a ratio of the incompatible material for each type of organic waste in the mixed waste organic collection stream and the source separated organic waste collection waste stream by dividing the total from Subdivision (b)(2) by the total from Subdivision (b)(1).

(4) Multiply the ratio determined pursuant to Subdivision (b)(3) for each type of organic waste by the total weight of all of the same type of organic waste separated after processing and destined for end-use, recovery or further processing.

(5) Determine the total weight of incompatible materials separated from the mixed waste organic collection stream and from the source separated organic waste stream by adding the sum of all the weights calculated pursuant to Subdivision (b)(4).

(6) Determine the ratio of incompatible materials by taking the total weight of incompatible materials determined pursuant to Subdivision (b)(5) and dividing by the sum of the outgoing weights of the materials recovered from the mixed waste organic collection stream and from the source separated organic waste stream.

(7) Determine the percentage of incompatible materials by multiplying the ratio determined pursuant to Subdivision (b)(6) by 100.

(c) The recovered organic waste stream shall not be subject to Section 17409.5.8(a) if the recovered organic waste is sent to one or more of the following types of facilities that will further process that waste:

(1) A transfer/processing facility or operation that complies with Section 17409.5.8(a).

(2) A compostable material handling facility or operation that, pursuant to Section 17867(a)(16), demonstrates that the percentage of organic waste in the materials sent to disposal is:

(A) On and after January 1, 2022, less than 20 percent.

(B) On and after January 1, 2024, less than 10 percent.

(3) An in-vessel digestion facility or operation that, pursuant to Section 17896.44.1, demonstrates that the percentage of organic waste in the materials sent to disposal is:

(A) On and after January 1, 2022, less than 20 percent.

(B) On and after January 1, 2024, less than 10 percent.

(4) An activity that meets the definition of a recycling center as described in Section 17402.5(d).

(d) The operator shall conduct a measurement in the presence of the EA when requested.

(e) 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.

(f) For the purposes of this section “disposal” has the same meaning as “Activities that constitute landfill disposal” as defined in Section 18982.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.9. Alternatives to Measurement Protocols.

(a) The EA may approve, with concurrence by the Department, alternative measurement protocols to the requirements of Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, and 17409.5.8, as long as they will still ensure that the measurements will be as accurate. The Department shall concur with the EA approval if it finds that the alternative measurement protocols will ensure that the measurements will be as accurate. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article.

(b) When required by this article, the operator shall report tonnages using a scale. If scales are not accessible, the EA may approve, with written notification to the Department, the operator to report the tonnages using a method described in Section 18815.9(g).

(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 activity with a quality standard imposed on the operator by the person, entity, or solid waste facility or operation accepting that organic waste type as specified in this subdivision. The Department shall concur with the EA approval if it verifies that there is a quality standard imposed on the operator by the person, entity, or solid waste facility or operation accepting that organic waste type as specified in this subdivision and that the standard meets the requirements in Subdivision (c)(1)(A) through (G), below.

(1) The EA may waive the requirements in Sections 17409.5.2, 17409.5.4 and 17409.5.8 to sample a type of organic waste that the operator recovered from the source separated organic waste collection stream or from the mixed waste organic collection stream if the following apply:

(A) The person, entity, or solid waste facility or operation accepting that organic waste type requires the operator to demonstrate that the presence of incompatible materials in the organic waste type is less than or equal to the level of incompatible materials specified in Section 17409.5.8(a);

(B) The person, entity, or solid waste facility or operation accepting that organic waste type requires the operator to demonstrate the presence of incompatible materials through sampling;

(C) The sampling protocol that is used to meet the quality standard of the person, entity, or solid waste facility or operation accepting that organic waste type is designed to accurately reveal the percentage of incompatible material by weight that is present in the samples;

(D) The end-user and the operator have a contract or written agreement specifying the sampling protocol and the maximum level of incompatible materials allowed in the organic material before it is accepted by the end-user;

(E) The contract or written agreement is available for review by the EA;

(F) The sampling protocol is at least as effective as the sampling required in Sections 17409.5.2, 17409.5.4 and 17409.5.8; and

(G) The operator allows the EA to observe sampling upon request.

(d) An operator that is authorized to substitute a quality standard for sampling requirements as specified in Subdivision (c) for a specific type of recovered organic waste type shall apply the weight of incompatible materials as measured in the quality standard to total weight of that organic waste type for the purposes of determining organic waste recovery efficiency as specified in Section 17409.5.1.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.10. Solid Waste Handling at Consolidation Sites.

(a) Consolidation sites are not subject to the requirements of Sections 17409.5.1 through 17409.5.9.

(b) Consolidation sites are not subject to the recordkeeping and reporting requirements of Section 17414.2.

(c) Consolidation sites shall keep source separated organic waste streams separate from other solid waste streams.

(d) Materials shall be transported only to transfer/processing facilities or operations that comply with Section 17409.5.1.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.10.5. Solid Waste Handling at Co-Located Facilities or Operations.

(a) The operator of an attended solid waste facility or operation that is permitted or authorized and accepts a mixed waste organic collection stream, a source separated organic waste collection stream, or both for processing and directly transfers the organic waste recovered from either collection stream to a co-located activity within the boundary of the facility for processing is subject to the following requirements:

(1) If sampling performed pursuant to Section 17409.5.3, 17409.5.5, 17867, or 17896.44.1, whichever is applicable, demonstrates 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 17409.5.1 through 17409.5.8.

(2) If sampling performed pursuant to Section 17409.5.3, 17409.5.5, 17867, or 17896.44.1, whichever is applicable, 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.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.11. Remnant Organic Material Separated From Gray Container Processing.

(a) Remnant organic material separated from the gray container collection stream for recovery is not subject to the requirements of Sections 17409.5.1 and 17409.5.8.

(1) Remnant organic material removed from the gray container collection stream for recovery can be combined with organic material removed from the source separated organic waste collection stream for recovery once the material from the source separated organic waste collection stream has gone through the measurement protocol described in Section 17409.5.4.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17409.5.12. Transfer/Processing EA Verification Requirements

(a) 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 Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, and 17409.5.8.

(b) The EA shall conduct such verification through:

(1) The review of records required by Section 17414.2; and

(2) The periodic, direct observation of measurements at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, and 17409.5.8.

(c) If, at any time, the EA determines that the records under Section 17414.2(b) indicate that compostable material is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination(s). 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.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6 Health and Safety Code.

Section 17409.6. Parking.

Adequate off-street parking area(s) shall be provided, if necessary, for transfer vehicles. Compliance with specific provisions regarding adequacy of off-street parking in a local land use approval, such as a conditional use permit or CEQA mitigation measures, shall be considered compliance with this standard.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17410.1. Solid Waste Removal.

(a) All solid wastes shall be removed at the following frequencies or at an alternate frequency approved by the EA, in order to prevent the propagation or attraction of flies, rodents or other vectors:

(1) operations shall remove solid wastes accepted at the site within 7 days from the date of receipt;

(2) facilities shall remove solid waste accepted at the site within 48 hours from the time of receipt.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17410.2. Supervision and Personnel.

The operator shall provide adequate supervision and a sufficient number of qualified personnel to ensure proper operation of the site in compliance with all applicable laws, regulations, permit conditions and other requirements. The operator shall notify the EA in writing of the name, address and telephone number of the operator or other person responsible for the operation. A copy of the written notification shall be placed in the operating record.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17410.3. Training.

Personnel assigned to the operation or facility shall be adequately trained in subjects pertinent to site solid waste operations and maintenance, hazardous materials recognition and screening, use of mechanized equipment, environmental controls, emergency procedures and the requirements of this Article. A record of such training history shall be maintained and made available for inspection.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17410.4. Vector, Bird and Animal Control.

The operator shall take adequate steps to control or prevent the propagation, harborage and attraction of flies, rodents, or other vectors, and animals, and to minimize bird attraction.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Station Approval (SubArticle)

Section 17411. Written Approval Required. [Repealed]

Section 17412. Compliance with Conditions. [Repealed]

Section 17413. Conformance with Plan. [Repealed]

Article 6.3 Record Keeping Requirements

Section 17414. Record Keeping Requirements.

Each operator shall meet the following requirements:

(a) each operator shall maintain records of incoming weights or volumes and outgoing salvage or residual weights or volumes in a form and manner approved by the EA. Such

records shall be: submitted to the EA or Department upon request; be adequate for overall planning and control purposes; and, be as current and accurate as practicable;

(b) all records required by this Article shall be kept by the operator in one location and accessible for three (3) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours;

(c) the operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA;

(d) the operator shall maintain a daily log book or file of special occurrences encountered during operations and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Special occurrences shall include but are not limited to: fires, injury and property damage, accidents, explosions, receipt or rejection of prohibited wastes, lack of sufficient number of personnel pursuant to section 17410.2, flooding, earthquake damage and other unusual occurrences. In addition, the operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment;

(e) the operator shall record any written public complaints received by the operator, including:

(1) the nature of the complaint,

(2) the date the complaint was received,

(3) if available, the name, address, and telephone number of the person or persons making the complaint, and

(4) any actions taken to respond to the complaint.

(f) the operator shall maintain a copy of the written notification to the EA and local health agency of the name, address and telephone number of the operator or other person(s) responsible for the operations as required by section 17410.2;

(g) the operator shall maintain records of employee training as required by section 17410.3; and

(h) each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17414.1. Documentation of Enforcement Agency Approvals, Determinations, and Requirements.

Approvals, determinations, and other requirements the EA is authorized to make under this Subchapter shall be provided in writing to the operator and placed in the operating record by the operator.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17414.2. Recordkeeping and Reporting Requirements - Organic Waste Recovery.

(a) The operator shall keep the following records:

(1) The results of each sample conducted pursuant to Sections 17409.5.2, 17409.5.3, 17409.5.4, 17409.5.5, 17409.5.7, and 17409.5.8.

(2) The daily outgoing weights of material recovered from the mixed organic waste stream.

(3) The daily outgoing weights of materials removed from the mixed organic waste stream and sent to landfill disposal.

(4) The daily outgoing weights of material recovered from the source separated organic waste stream.

(5) The daily outgoing weights of material removed from the source separated, organic-waste stream and sent to landfill disposal.

(6) The daily incoming weights of mixed organic waste.

(7) The daily incoming weights of source separated organic waste.

(8) The results of the formula calculated pursuant to Section 17409.5.8(b)(7).

(9) If the operator complies with the incompatible material requirements in Section 17409.5.8 by sending material to a facility that meets the requirements of Section 17409.5.8(c), the operator shall keep a record of:

(A) The name, address, location, and if applicable the RDRS number, of each facility that material is sent to.

(B) The daily outgoing weights of material sent to each facility by type.

(10) The results of the waste evaluations conducted pursuant to Section 17409.5.7.

(A) A copy of the notification if the waste evaluation was performed at an alternative solid waste facility.

(b) The operator shall record and maintain the following records regarding compostable material that is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation:

(1) The level of incompatible materials in that material as measured pursuant to 17409.5.8; and

(2) The total weights of that material per day.

(c) The records required in Subdivisions (a) and (b) shall be:

(1) Adequate for overall planning and control purposes.

(2) As current and accurate as practicable.

(d) All records required by this article shall be kept by the operator in one location and accessible for five (5) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours.

(e) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA.

(f) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the EA.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Article 6.35 Additional Operating Requirements for Facilities Only

Section 17415.1. Communications Equipment.

Each facility shall have adequate communication equipment available to site personnel to allow quick response to emergencies.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17415.2. Fire Fighting Equipment.

Each Facility shall have fire suppression equipment continuously available, properly maintained and located as required by the local fire authority.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17416.1. Housekeeping.

The operator shall provide adequate housekeeping for the maintenance of facility equipment and shall minimize accumulations of fuel drums, inoperable equipment, parts, tires, scrap, and similar items.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17416.2. Lighting.

The facility and/or equipment shall be equipped with adequate lighting, either through natural or artificial means, to ensure the ability to monitor incoming loads, effectiveness of operations, and public health, safety and the environment.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17416.3. Equipment.

Equipment shall be adequate in type, capacity and number, and sufficiently maintained to allow the facility to meet all requirements of Articles 6.3 and 6.35 of these standards.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17418.1. Site Security.

The facility shall be designed to discourage unauthorized access by persons and vehicles through the use of either a perimeter barrier or topographic constraints.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17418.2. Site Attendant.

A facility open to the public shall have an attendant present during public operating hours or the facility shall be inspected by the operator on a regularly scheduled basis as approved by the EA to ensure that it meets all of the requirements of Articles 6.2, 6.3 and 6.35.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17418.3. Traffic Control.

(a) Traffic flow through the facility shall be controlled to prevent the following:

- (1) interference with or creation of a safety hazard on adjacent public streets or roads,
- (2) on-site safety hazards, and
- (3) interference with operations.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17419.1. Visual Screening.

The facility shall have appropriate treatment of areas open to public view to create and maintain an aesthetically acceptable appearance as approved by the local land use authority, or if none exist, in consultation with the EA. Compliance with specific provisions regarding visual screening in a local land use approval, such as a conditional use permit, or CEQA mitigation measures shall be considered compliance with this standard.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17419.2. Water Supply.

A safe and adequate water supply for drinking and emergency use (i.e.: first aid) shall be available.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Article 6.4. Transfer/Processing Station Standards.[Repealed]

Article 7.1. Disposal Site Standards – General. [Repealed]

Article 7.2. Disposal Site Siting and Design. [Repealed]

Article 7.3. Disposal Site Records. [Repealed]

Article 7.4. Disposal Site Improvements. [Repealed]

Article 7.5. Disposal Site Operations. [Repealed]

Article 7.6. Disposal Site Controls. [Repealed]

**Article 7.8. Disposal Site Standards Closure and Postclosure.
[Repealed]**

**Article 8. Agricultural Solid Waste Management Standards
General (SubArticle)**

Section 17801. Intent of Standards.

These standards are generally intended to describe levels of performance expected rather than stating detailed requirements; wherever possible, persons responsible for management of manures and agricultural wastes shall be permitted flexibility of approach in meeting the objectives set by the standards. Where the phrase "as approved by the Enforcement Agency" is used, it is contemplated that, in most instances, the operator will propose a method, physical improvement, management modification or other appropriate means to comply with a standard to enable approval by the Enforcement Agency (as opposed to the Enforcement Agency specifying the exact means of compliance). These standards are intended only to eliminate excessive vectors or other adverse public health/well-being effects associated with any agricultural operation.

It is the intent of these standards to promote conditions under which agricultural operations and residential or public use of properties can coexist.

Authority cited: *Sections 40502 and 43020, Public Resources Code; Section 4520, Health and Safety Code.*

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17802. Applicability of Standards. [Repealed]

Section 17803. Compliance with Laws and Regulations.

Nothing in these standards shall be construed as relieving an owner, operator, or designer from the obligation of obtaining all required permits, licenses, or other

clearances, and complying with all orders, laws, regulations or other requirements of other approval, regulatory or enforcement agencies, such as, but not limited to, local health entities, water and air quality boards, local land use authorities, fire authorities, etc.

Section 17804. Conformance with Plan. [Repealed]

Section 17805. Appeals.

The Board and the Department will provide for review and appeals regarding these standards. Thus any enforcement action by the local Enforcement Agency, including the determination that agricultural operations are resulting in excessive vectors, odor, dust, or feathers, may be investigated and confirmed or denied by the Department.

Definitions (H) these Definitions Supplement the Definitions in Article 4 (SubArticle)

Section 17810.1. Manure.

Manure shall mean the accumulated moist animal excrement that does not undergo decomposition or drying as would occur on open grazing land or natural habitat. This definition shall include feces and urine which may be mixed with bedding material, spilled feed or soil.

Section 17810.2. Confined Animals.

Confined animals shall include, but not be limited to, all cattle, horses, sheep, swine, rabbits, poultry, dogs, cats, fur-bearing animals, and other animals that are held, confined or fed supplementally in enclosures where the excrement accumulates as manure. The numbers of animals per unit of enclosed area shall be a part of this definition when excessive vectors, odor, dust or feathers are produced as determined by the Enforcement Agency or the Department taking into consideration varying regional environmental conditions.

Section 17810.3. Enforcement Agency Inspection.

An Enforcement Agency inspection shall mean a site inspection by an agent of the Enforcement Agency or the Department trained in the knowledge of the biology of and revention of vectors, odor, dust or feathers associated with agricultural solid wastes, so as to protect the public health and well-being.

Section 17810.4. Excessive Vectors.

Excessive vectors shall refer to the presence of domestic flies, mosquitoes, cockroaches, rodents, and/or any other vectors associated with agricultural wastes which:

(a) Occur as immature stages and adults in numbers considerably in excess of those found in the surrounding environment; and

- (b) are associated with design, layout and management of agricultural operations; and
- (c) disseminate widely from the property; and
- (d) cause detrimental effects on the public health or well-being of the majority of the surrounding population as determined by the Enforcement Agency or the Department.

Section 17810.5. Excessive Odor, Dust and Feathers.

Excessive odor, dust and feathers shall refer to the presence of these materials which:

- (a) Are associated with design, layout and management of agricultural operations; and
- (b) disseminate widely from the property; and
- (c) cause detrimental effects on the public health or well-being of the majority of the surrounding population as determined by the Enforcement Agency or the Department.

Storage Handling and Disposal (SubArticle)

Section 17820. Agricultural Solid Wastes As a Public Health/Well-Being Hazard.

Any person who sustains, stores, manages or receives agricultural by-products or other waste materials generated as a result of the operation of any agricultural property or produce processing plant shall do so in such a manner as to prevent the spread of disease, the occurrence of excessive vectors, odor, dust, or feathers or other such adverse conditions related to the public health and well-being. In addition:

- (a) The presence of excessive vectors on the property shall be prima facie evidence that an adverse public health/well-being hazard exists.
- (b) The determination of the presence of excessive vectors shall be made by an Enforcement Agency or the Department.
- (c) The determination of the presence of excessive vectors shall take into account the proximity of the agricultural operation to neighboring human habitation and use areas, the population density of the entire area and the severity of the public health/well being hazard posed by said vectors.

Section 17821. Inspection of Agricultural Operations

The Enforcement Agency shall have inspection capability to enforce these standards and to conduct appropriate numbers of site inspections of agricultural operations located within its jurisdiction. Need, if any, and frequency and timing of inspection should be based on public demand, the nature and size of the operation, the season, the vector potential of the operation and its proximity to residential properties. During inspection of agricultural operations the inspector shall observe all reasonable precautionary security, sanitation or other measures specified by the agricultural operator.

Section 17822. Correction of Adverse Public Health/Well-Being Conditions.

When the Enforcement Agency or the Department determines that design and layout of agricultural operations or management of agricultural wastes result in the occurrence of excessive vectors or any other adverse public health/well-being related conditions, the owner or operator of the property shall be informed in writing of a violation of these standards and shall be required to institute appropriate measures promptly to correct the condition in a manner approved by the Enforcement Agency or the Department.

Section 17823. Agricultural Wastes Management Practices.

Agricultural operations shall be managed in a manner which will not cause excessive vectors or other adverse public health/well-being conditions.

The Enforcement Agency shall provide state-developed guidelines which will assist agricultural operators or others concerned in design, layout, and management plans that minimize excessive vectors or other adverse public health/well-being conditions. Organic wastes are potential resources, and agricultural operations should adopt comprehensive waste handling practices which will lead to resource recovery.

Section 17823.1. Animal Manure.

The manure management practices being performed by the agricultural operation shall be conducted so as to prevent the creation of excessive vectors or other adverse public health/well-being conditions, otherwise manure shall be removed at intervals frequent enough to prevent the occurrence of such conditions. Manure removed from confined animal areas shall be managed so as to prevent the creation of adverse public health/well-being conditions.

Section 17823.2. Vegetable or Fruit Crop Field Residues.

Vegetable or fruit crop field residues which can be a source of excessive vectors or other conditions that adversely affect the public health/well-being shall be incorporated into the soil when conditions of soil moisture permit, completely consumed by livestock, removed from the field prior to the development of such conditions or managed by other appropriate measures to suppress the adverse effect.

After removal from the field, crop residue wastes shall be stored, processed or disposed of so as to prevent the creation of conditions adverse to the public health/well-being.

Section 17823.3. Vegetable or Fruit Crop Processing Wastes.

Where decomposable wastes from vegetable or fruit crop processing operations can become a source of excessive vectors or other conditions that adversely affect the public health/well-being, approved management practices to prevent such conditions shall be initiated.

Section 17823.4. Dust, Hair and Feathers.

Dust, hair and feathers associated with confined agricultural operations shall be managed so as to avoid conditions that adversely affect the public health/well-being as determined by the Enforcement Agency. Accumulations of hair and feathers shall be periodically disposed of in a manner approved by the Enforcement Agency or the Department.

Section 17823.5. Dead Animals.

The carcasses of animals with any contagious disease shall be disposed of by means prescribed by the California Department of Food and Agriculture, Division of Animal Industry.

Animal carcasses from confined animal operations shall be collected, stored, and removed from the property to an approved processing facility or disposal site prior to the creation of adverse public health/well-being conditions, or processed or disposed of on the property in a manner approved by the Enforcement Agency.

Animal carcasses from animals on pasture or rangeland shall be managed so as to prevent the creation of excessive vectors or other adverse public health/well-being conditions.

Section 17824. Management of Agriculture Waste Ponds, Lagoons, Ditches and Pipelines.

Ponds, lagoons, ditches and pipelines used for the transfer, holding, treatment and stabilization of manure or vegetable or fruit crop wastes shall be managed so as to prevent the creation or harborage of excessive vectors or other conditions that adversely affect the public health/well-being. Accumulations of floating solids, scum and thick aquatic vegetation, and the growth of weeds and emergent aquatic vegetation at the water's edge shall be continuously maintained at a minimal level to assist in the prevention of such adverse conditions.

Disposal or utilization of the contents of such facilities shall not create excessive vectors or other adverse public health/well-being conditions.

Article 9. Litter Receptacle Standards. [Repealed]

3.1. Compostable Materials Handling Operations and Facilities Regulatory Requirements

SubChapter Ghost Header for Outline ADA Compliance

Article 1. General

Section 17850. Authority and Scope.

(a) This Chapter is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(b) This Chapter implements those provisions of the Act relating to composting. Nothing in this Chapter is intended to limit the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer.

(c) Biological decomposition of organic material can be both a naturally occurring or artificially controlled process. This Chapter establishes standards and regulatory requirements for intentional and inadvertent composting resulting from the handling of compostable materials, including but not limited to feedstock, compost, or chipped and ground materials as defined in Section 17852.

(d) Nothing in these standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or EA, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

(e) Nothing in these standards precludes the EA or the board from inspecting an activity, operation or facility to determine if it is subject to these standards.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17851. Scope. [Repealed]

Section 17852. Definitions.

(a) For the purposes of this Chapter:

(1) "Active Compost" means 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 compost per day, or the equivalent of oxygen uptake.

(2) "Additives" means material mixed with feedstock 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.

(3) "Aerated Static Pile" means a composting process that uses an air distribution system to either blow or draw air through the pile. Little or no pile agitation or turning is performed.

(4) "Aerobic Decomposition" means the biological decomposition of organic substances in the presence of oxygen.

(4.5) "Agricultural By-Product Material" means post-harvest agricultural by-products separated at a processing facility.

(A) Agricultural By-product Material includes, but is not limited to, solid or semi-solid materials from fruit, nut, cotton, and vegetable processing facilities such as stems, leaves, seeds, nut hulls and shells, peels, and off-grade, over-ripe, or under-ripe produce.

(B) Agricultural By-product Material does not contain packaging material, physical contaminants, or hazardous materials, and does not include wastewater, sludges, or additives.

(5) "Agricultural Material" means waste material of plant or animal origin, which results directly from the conduct of agriculture, animal husbandry, horticulture, aquaculture, silviculture, vermiculture, viticulture and similar activities undertaken for the production of food or fiber for human or animal consumption or use, which is separated at the point of generation, and which contains no other solid waste. With the exception of grape pomace or material generated during nut or grain hulling, shelling, and processing, 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. Material that is defined in this Section 17852 as "food material" or "vegetative food material" is not agricultural material. Agricultural material includes, but is not limited to, manures, orchard and vineyard prunings, grape pomace, and crop residues.

(6) "Agricultural Material Composting Operation" means an operation that produces compost from green or agricultural material, additives, and/or amendments.

(7) "Amendments" means materials added to stabilized 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.

(8) "Anaerobic Decomposition" means the biological decomposition of organic substances in the absence of oxygen.

(9) "Biosolids" means solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic septage and scum or solids removed in primary, secondary, or advanced wastewater treatment processes. Biosolids includes the residue solids resulting from the co-digestion of anaerobically digestible material with sewage sludge. Biosolids does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in a treatment works.

(10) "Chipping and Grinding Operations and Facilities" means an operation or facility, that does not produce compost that mechanically reduces the size or otherwise engages in the handling, of compostable material and:

(A) The site does the following:

The site handles only material, excluding manure, allowed at a green material composting operation or facility as set forth in Section 17852(a)(22); and

Each load of green material is removed from the site within 48 hours of receipt. The EA may allow a site to keep green material on-site for up to 7 days if the EA determines that the additional time does not increase the potential for violations of this Chapter.

(B) If the site fails to meet the definition of green material because it exceeds the contamination limits in Section 17852(a)(21), the site shall be regulated as set forth in the Transfer/Processing Regulatory requirements (commencing at Section 17400).

(C) If the site fails to meet the definition of this Section because the green material remains on-site for a longer period of time than allowed, then the site shall be regulated as a compostable material handling operation or facility, as set forth in this Chapter.

(11) "Compostable Material" means any organic material that when accumulated will become active compost as defined in Section 17852(a)(1).

(12) "Compostable Material Handling Operation" or "Facility" means an operation or facility that processes, transfers, or stores compostable material. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and storage activities related to the production of compost, compost feedstocks, and chipped and ground materials. "Compostable Materials Handling Operation or Facility" does not include activities excluded from regulation in Section 17855. "Compostable Materials Handling Operation or Facility" also includes:

(A) agricultural material composting operations;

(B) green material composting operations and facilities;

- (C) vegetative food material composting facilities;
- (D) research composting operations;
- (E) chipping and grinding operations and facilities; and
- (F) biosolids composting operations at POTWs.

(13) "Curing" means the final stage of the composting process that occurs after compost has undergone pathogen reduction, as described in Section 17868.3, and after most of the readily metabolized material has been decomposed and stabilized.

(13.5) "Digestate" means the solid and/or liquid residual material remaining after organic material has been processed in an in-vessel digester, as defined in Section 17896.2(a)(14). Digestate intended to be composted pursuant to this Chapter may only be handled at a facility that has obtained a Compostable Materials Handling Facility Permit pursuant to Section 17854.

(14) "Domestic Sewage" means waste and wastewater from humans or household operations that is discharged to or otherwise enters a treatment works.

(15) "Disposal of compostable material and/or digestate" means:

(A) the final deposition of compostable material and/or digestate on land, unless excluded from this Chapter 3.1 pursuant to Section 17855;

storing or stockpiling more than 200 cubic yards of compostable material, other than stabilized compost as defined in Section 17852(a)(36) that meets the maximum metal concentration requirements of Section 17868.2, on land for more than 30 days, except as provided in subdivision (A) 3.; or

storing or stockpiling more than 200 cubic yards of agricultural material, green material, or compost for more than twelve months on land that is zoned for agricultural uses, unless the EA, after consultation with the applicable RWQCB and other agencies as the EA deems appropriate, makes a written finding that storing or stockpiling the material more than 12 months will not adversely affect the public health and safety or the environment.

(B) Disposal of compostable material does not include the use of compostable material:

for beneficial reuse at a solid waste landfill pursuant to Title 27, California Code of Regulations, Section 20686; or

for mine reclamation in accordance with applicable law.

for land application as defined in Section 17852(a)(24.5).

as specified in Section 17852(a)(24.5)(B).

(C) Should the EA have reason to believe that a person is engaging in activities that meet the definition of disposal of compostable material or authorizing such activities on land the person owns or otherwise possesses, the burden of proof shall be on each person engaging in or authorizing such activities to demonstrate otherwise.

(D) If the activities at a site meet the definition of disposal of compostable material and/or digestate, the site shall be regulated as set forth in the Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste (commencing at Title 27, California Code of Regulations, Section 20005).

(16) "Dry Weight Basis" or "Dry Weight" means weight calculated on the basis of having been dried until reaching a constant mass, that results in essentially 100 percent solids content.

(17) "Enclosed Composting Process" means a composting process where the area that is used for the processing, composting, stabilizing, and curing of organic materials, is covered on all exposed sides and rests on a stable surface with environmental controls for moisture and airborne emissions present.

(18) "EA" means enforcement agency.

(19) "Feedstock" means any compostable material used in the production of compost or chipped and ground material including, but not limited to, agricultural material, green material, vegetative food material, food material, biosolids, digestate, and mixed material. Feedstocks shall not be considered as either additives or amendments.

(19.5) "Film plastic" means sheet plastic 10 mil or less in thickness.

(20) "Food Material" means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food material includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code Section 113789 (such as restaurants), food processing establishments as defined in Health and Safety Code Section 111955, grocery stores, institutional cafeterias (such as, prisons, schools and hospitals) and residential food scrap collection. Food material does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto.

(A) "Vegetative Food Material" means that fraction of food material, defined above, that is a plant material and is separated from other food material and the municipal solid waste stream. Vegetative food material may be processed or cooked but must otherwise retain its essential natural character and no salts, preservatives, fats or oils, or adulterants shall have been added. Vegetative food material includes, but is not limited to, fruits and vegetables, edible flowers and plants, outdated and spoiled produce, and coffee grounds. Vegetative food material contains no greater than 1.0 percent of physical contaminants by dry weight, and meets the requirements of Section 17868.5.

(21) "Green Material" means any plant material except food material and vegetative food material that is separated at the point of generation, contains no greater than 1.0 percent of physical contaminants by dry weight, and meets the requirements of Section 17868.5. Green material includes, but is not limited to tree and yard trimmings, untreated wood wastes, natural fiber products, wood waste from silviculture and manufacturing, and construction and demolition wood waste. Green material does not include food material, vegetative food material, biosolids, mixed material, material separated from commingled solid waste collection or processing, wood containing lead-based paint or wood preservative, or mixed construction and demolition debris. Agricultural material, as defined in this Section 17852(a)(5), that meets this definition of "green material" may be handled as either agricultural material or green material.

(22) "Green Material Composting Operation" or "Facility" is an operation or facility that composts green material, additives, and/or amendments. A green material composting operation or facility may also handle manure and paper products. An operation or facility that handles a feedstock that is not green material, manure, or paper products, shall not be considered a green material composting operation or facility. "Green Material Composting Operation" or "Facility" does not include activities excluded from regulation in Section 17855.

(23) "Handling" means the processing, transfer, and storage of compostable materials. Handling of compostable materials results in controlled biological decomposition. Handling includes composting, screening, chipping and grinding, and storage activities related to the production of compost, compost feedstocks, and chipped and ground materials.

(24) "Insulating Material" means material used for the purpose of minimizing the loss of heat from a compost pile undergoing the "Process to Further Reduce Pathogens" (PFRP), as described in Section 17868.3. Insulating material includes, but is not limited to, soil and stabilized compost.

(24.5) "Land Application" means:

(A) The final deposition of compostable material and/or digestate spread on any land, including land zoned only for agricultural uses, under the following conditions:

On and after January 1, 2018, the compostable material and/or digestate does not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters (no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters), as specified in Section 17868.3.1, at the time of land application;

The compostable material and/or digestate meets the maximum metal concentrations, as specified in Section 17868.2, at the time of land application;

The compostable material and/or digestate meets the pathogen density limits, as specified in Section 17868.3(b)(1), at the time of land application; and

On land not zoned only for agricultural uses, the compostable material and/or digestate

is not applied more frequently than once during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the Regional Water Quality Control Board, may approve alternative application frequencies and depths, if the EA after such consultation determines that the alternatives will not adversely affect public health and safety or the environment.

On land zoned only for agricultural uses, the compostable material and/or digestate is not applied more frequently than three times during a 12 month period, and, at the time of the land application, the compostable material and/or digestate shall not exceed 12 inches in total, accumulated depth on the land surface. The EA, in consultation with the California Department of Food and Agriculture to determine if the land application is agronomically beneficial and with the Regional Water Quality Control Board regarding water quality, may approve alternative frequencies and depths, if the EA after such consultation determines that the alternative will not adversely affect public health and safety or the environment. The Department shall coordinate all EA requests for consultation with the California Department of Food and Agriculture.

Verification of compliance with this subdivision must be provided to the EA upon request.

(B) This subdivision (a)(24.5) does not apply to:

the use of compost produced in compliance with Article 3.1 and/or 3.2 of this Division,

the use of compostable material and/or digestate for gardening or landscaping on a parcel of land 5 acres or less in size,

the final deposition of compostable material and/or digestate spread on land by a Federal, State, or local government entity, provided the material is applied in accordance with applicable law,

the final deposition of agricultural by-products material spread on land as authorized by the State Water Resources Control Board or a Regional Water Quality Control Board pursuant to Waste Discharge Requirements, a Waiver of Waste Discharge Requirements, a Resolution, or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control Board having jurisdiction, provided this final deposition does not adversely affect public health and safety or the environment.

the beneficial reuse at a solid waste landfill pursuant to Title 27, California Code of Regulations, Section 20686, or

the beneficial reuse of biosolids pursuant to Part 503, Title 40 of the Code of Federal Regulations and State Water Resources Control Board General Order No. 2004-0012-DWQ, or site-specific Waste Discharge Requirements or other issued requirements from the State Water Resources Control Board or a Regional Water Quality Control Board having jurisdiction. *[Note: As specified in Section 17850(d), nothing in these*

standards shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all authorizations and complying with all requirements of other regulatory agencies, including but not limited to, local health entities, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.]

(25) "Manure" is an agricultural material and means accumulated herbivore or avian excrement. This definition shall include feces and urine, and any bedding material, spilled feed, or soil that is mixed with feces or urine.

(26) "Mixed Material" means any compostable material that is part of the municipal solid waste stream, and is mixed with or contains non-organics, processed industrial materials, mixed demolition or mixed construction debris, or plastics. A feedstock that is not source separated or contains 1.0% or more physical contaminants by dry weight is mixed material.

(27) "Mushroom Farm" means an activity that produces mushrooms. The handling of compostable material at a mushroom farm prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered mushroom farming.

(27.5) "Nuisance" includes anything which:

(A) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and

(B) affects at the same time an entire community, neighborhood or any considerable number of persons. The extent of annoyance or damage inflicted upon an individual may be unequal.

(28) "Operations Area" means the following areas within the boundary of a compostable material handling operation or facility:

(A) equipment cleaning, maintenance, and storage areas;

(B) feedstock, active, curing and stabilized compost processing or stockpiling areas; and

(C) process water and stormwater drainage control systems.

(29) "Operator" means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, becomes legally responsible for the following:

(A) complying with regulatory requirements set forth in this Chapter;

(B) complying with all applicable federal, state and local requirements;

(C) the design, construction, and physical operation of the site; and

(D) site restoration.

(30) "Owner" means the person or persons who own, in whole or in part, a compostable material handling operation or facility, or the land on which these operations or facilities are located.

(31) "Pathogenic Organism" means disease-causing organisms.

(32) "Physical Contamination" or "Contaminants" means human-made inert material contained within compostable material, digestate, or compost, including, but not limited to, glass, metal, and plastic.

(33) "Process Water" means liquid that is generated during or used in the production of compost or chipped and ground materials.

(34) "Research Composting Operation" means a composting operation that is operated for the purpose of gathering research information on composting.

(35) "Separated At The Point of Generation" includes material separated from the solid 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 materials during handling.

(36) "Stabilized Compost" means any organic material that has undergone the Process to Further Reduce Pathogens (PFRP), as described in Section 17868.3, and has reached a stage of reduced biological activity as indicated by reduced temperature and rate of respiration below that of active compost.

(37) "Static Pile" means a composting process that is similar to the aerated static pile except that the air source may or may not be controlled.

(38) "Vector" includes any insect or other arthropod, rodent, or other animal capable of transmitting the causative agents of human disease.

(38.5) "Vegetative Food Material Composting Facility" is a facility that composts agricultural material, green material, vegetative food material, additives, and/or amendments. A vegetative food material composting facility may also handle manure and paper products. An operation or facility that handles a feedstock that is not agricultural material, green material, vegetative food material, manure, or paper products, shall not be considered a vegetative food material composting facility. "Vegetative Food Material Composting Facility" does not include activities excluded from regulation in Section 17855.

(39) "Vermicomposting" means an activity that produces worm castings through worm activity. The EA may determine whether an activity is or is not vermicomposting. The handling of compostable material prior to and after use as a growth medium is subject to regulation pursuant to this chapter and is not considered vermicomposting.

(40) "Windrow Composting Process" means the process in which compostable material is placed in elongated piles. The piles or "windrows" are aerated and/or mechanically turned on a periodic basis.

(41) "Within-vessel Composting Process" means an aerobic process in which compostable material is enclosed in a drum, silo, bin, tunnel, reactor, or other container for the purpose of producing compost, maintained under uniform conditions of temperature and moisture where air-borne emissions are controlled.

(42) "Wood Waste" means solid waste consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

(43) "Yard Trimmings" means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17853. Definitions. [Repealed]

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

Reference: Sections 40051, 40052, 40116, 43020 and 43200, et seq., Public Resources Code.

Section 17853.0. Approval of Alternatives.

(a) Approvals, determinations and other requirements that the EA is authorized to make in this Chapter shall be provided in writing by the EA to the operator. The operator shall place a copy of these approvals, in addition to those records identified in Sections 17869, in the operating record.

(b) Some of the provisions of this Chapter allow the EA to approve a reduced inspection frequency. The EA shall only approve a reduced inspection frequency if the EA finds that it is as protective of the public health and safety and the environment as the standard inspection frequency.

(c) Some of the standards contained in this Chapter allow the EA to approve an alternative method of compliance with the standard. These provisions are not intended to allow the EA to change the particular standard, but are intended to allow the EA flexibility to approve, in advance, an alternative method of meeting the existing standard. For facilities that require a full solid waste facilities permit, the EA may choose to include the approved method as a term and condition of the solid waste facilities permit, rather than in the manner authorized by subdivision (a) of this Section. If the method is included in the Compostable Materials Handling Facility Permit, a change to the method may require a revision to the solid waste facilities permit in accordance with

the procedures set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3, and 3.1 (commencing with Section 21570).

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

Article 2: Regulatory Tiers for Composting Operations and Facilities

Section 17854. Compostable Materials Handling Facility Permit Requirements.

Except as specified in this Article, all compostable materials handling activities shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3 and 3.1 (commencing with Section 21450) prior to commencing operations.

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

Section 17854.1. Regulatory Tier Requirements for Compostable Material Handling Operations and Facilities.

Sections 17854 through 17862.1 set forth the regulatory tier requirements (Title 14, Division 7, Chapter 5., Article 3.0., commencing with Section 18100 or Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3 and 3.1 (commencing with Section 21570) of the California Code of Regulations) for compostable material handling operations and facilities. These requirements are summarized in the below Table 1.

Table 1: Compostable Material Handling Operations and Facilities Placement into the Regulatory Tiers

<i>Excluded Tier</i>	<i>Enforcement Agency Notification Tier</i>	<i>Registration Permit Tier</i>	<i>Full Solid Waste Facility Permit</i>
Refer to Section 17855	Agricultural Material Composting Operations (all) Section 17856.	Vegetative Food Material Composting Facilities ($\leq 12,500 \text{ yd}^3$) Section 17857.2	Composting Facilities (all) (e.g. biosolids, digestate, food material, mixed material) Section 17854
	Green Material Composting Operations ($\leq 12,500 \text{ yd}^3$) Section 17857.1(a)	Chipping and Grinding Facilities ($> 200 \text{ tpd}$ and $\leq 500 \text{ tpd}$) Section 17862.1(b)	Green Material Composting Facilities ($> 12,500 \text{ yd}^3$) Section 17857.1(c)

Excluded Tier	Enforcement Agency Notification Tier	Registration Permit Tier	Full Solid Waste Facility Permit
	Biosolids Composting Operations at POTWs (all) Section 17859.1		Vegetative Food Material Composting Facilities (>12,500 yd ³) Section 17857.2
	Research Composting Operations (≤5,000 yd ³) (Within-vessel >5,000 yd ³ with EA determination). Section 17862.		Chipping and Grinding Facilities (>500 tpd) Section 17862.1(c)
	Chipping and Grinding Operations (≤200 tpd) Section 17862.1(a)		

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

Section 17855. Excluded Activities.

(a) Except as provided otherwise in this Chapter, the activities listed in this section do not constitute compostable material handling operations or facilities and are not required to meet the requirements set forth herein. Nothing in this section precludes the EA or the Department from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity or from taking any appropriate enforcement action.

(1) An activity is excluded if it handles agricultural material, derived from an agricultural site, and returns a similar amount of the material produced to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the composting activity. No more than an incidental amount of up to 1,000 cubic yards of compost product may be given away or sold annually.

(2) Vermicomposting is an excluded activity. The handling of compostable material prior to and after its use as a growth medium during the vermicomposting process is not an excluded activity and is subject to the requirements of this chapter or the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0-6.35), whichever is applicable, as follows:

(A) when the compostable material is active compost or is likely to become active compost, as determined by the EA, the requirements of this chapter apply;

(B) at all other times when it is not being used as a growth medium during vermicomposting, the compostable material is subject to the Transfer/Processing Operations and Facilities Regulatory Requirements.

(3) Mushroom farming is an excluded activity. The handling of compostable material prior to and after its use as a growth medium during the mushroom farming process is not an excluded activity and is subject to the requirements of this chapter or the Transfer/Processing Operations and Facilities Regulatory Requirements (Title 14, California Code of Regulations, Division 7, Chapter 3, Article 6.0-6.35), whichever is applicable, as follows:

(A) when the compostable material is active compost or is likely to become active compost, as determined by the EA, the requirements of this chapter apply;

(B) at all other times when it is not being used as a growth medium during mushroom farming, the compostable material is subject to the Transfer/Processing Operations and Facilities Regulatory Requirements.

(4) Composting green material, agricultural material, food material, and vegetative food material, alone or in combination, is an excluded activity if the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet. [Note: Persons handling compostable material under the above exclusion are obligated to obtain all permits, licenses, or other clearances that may be required by other regulatory agencies including, but not limited to local health entities and local land use authorities.]

(5) The handling of compostable materials is an excluded activity if:

(A) the activity is located at a facility (i.e., landfill or transfer/processing facility) that has a tiered or full permit as defined in section 18101,

1. has a Report of Facility Information which is completed and submitted to the EA that identifies and describes the activity and meets the requirements of Titles 14 or 27; and,

2. will only use the material on the facility site, or

(B) the activity is solely for the temporary storage of biosolids sludge at a Publicly Owned Treatment Works (POTW), or

(C) the activity is located at the site of biomass conversion and is for use in biomass conversion as defined in Public Resources Code section 40106; or

(D) the activity is part of a silvicultural operation or a wood, paper, or wood product manufacturing operation; or

(E) the activity is part of an agricultural operation and is used to temporarily store or process agricultural material not used in the production of compost or mulch; or

(F) the activity is part of an operation used to chip and grind materials derived from and applied to lands owned or leased by the owner, parent, or subsidiary of the operation; or

(G) the activity is part of an agricultural operation used to chip and grind agricultural material produced on lands owned or leased by the owner, parent, or subsidiary of the agricultural operation, for use in biomass conversion; or

(H) An activity that is a licensed animal food manufacturing activity, or a rendering activity which is authorized by the California Department of Food and Agriculture pursuant to Section 19300 of the Food and Agricultural Code, and in which no solid waste feedstock bypasses the manufacturing or rendering process; or

(I) the activity is 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; or

(J) the materials are handled in such a way to preclude their reaching temperatures at or above 122 degrees Fahrenheit as determined by the EA; or

(6) Storage of bagged products from compostable material is an excluded activity provided that such bags are no greater than 5 cubic yards.

Note:

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

Reference: Sections 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17855.2. Prohibitions.

The following activities are prohibited at all compostable materials handling operations and facilities and at all sites where compostable materials handling activities that are excluded from regulation under this Chapter occur:

(a) The composting of unprocessed mammalian tissue, including but not limited to, flesh, organs, hide, blood, bone and marrow, except when received:

(1) from a food facility as defined in Health and Safety Code Section 113789, grocery stores, or residential food scrap collection,; or

(2) as part of a research composting operation for the purpose of obtaining data on pathogen reduction or other public health, animal health, safety, or environmental concern, in accordance with Section 17862.; or

(3) from a source approved by the Department in consultation with the State Water Resources Control Board and the California Department of Food and Agriculture.

(b) The composting of treated or untreated medical waste.

(c) The composting of hazardous waste.

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

Section 17855.3. Permit Name.

Any permit issued pursuant to this Article, except for one issued pursuant to Section 17862.1(b) and 17857.2(a), shall be entitled: "Compostable Materials Handling Facility Permit."

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

Section 17855.4. Pre-Existing Permits and Notifications. [Repealed]

Section 17856. Agricultural Material Composting Operations.

(a) Agricultural material composting operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100), and the requirements of this Chapter.

(b) Agricultural material composting operations are subject to the requirements of Sections 17863.4 and 17863.4.1 only if the EA determines that the operation has caused odor impacts in violation of Section 17867(a)(2) and has notified the operator in writing of the violation.

(c) If their feedstock is limited to agricultural material, agricultural material composting operations may handle an unlimited quantity of agricultural material on the site and may sell or give away any or all compost they produce. These operations shall be inspected by the EA at least once each calendar year at a time when compostable material on the site is active compost.

(d) Agricultural material composting operations whose feedstock is both green material and agricultural material are subject to the following requirements:

(1) Producers located on Agricultural Land:

(A) Operations located on land that is zoned for agricultural uses that sell or give away less than 1,000 cubic yards of compost per year may handle an unlimited amount of agricultural material and green material on the site; provided, however, the EA may limit the amount of green material feedstock on-site to 12,500 cubic yards upon making a written finding that handling the excess material may pose a risk to public health and safety or the environment.

(B) The EA shall inspect operations authorized under this subdivision (d)(1) at least once each calendar year at a time when compostable material on the site is active compost.

(2) Other Producers:

(A) Operations located on land that is not zoned for agricultural uses and operations that sell or give away 1,000 cubic yards or more of compost per year may handle an unlimited amount of agricultural material, but may not stockpile more than 12,500 cubic yards of green material feedstock on the site at any time.

(B) The EA shall inspect operations authorized under this subdivision (d)(2) at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. At least one of the required inspections each year shall occur at a time when compostable material on the site is active compost.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17857. Green Material Composting Operations and Facilities [Repealed]

Section 17857.1. Green Material Composting Operations and Facilities.

(a) A green material composting operation may have no more than 12,500 cubic yards of feedstock, chipped and ground material, amendments, additives, active compost, and stabilized compost on-site at any one time. Green material composting operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100). and with the applicable requirements specified in this Chapter.

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

(2) To allow for seasonal variations in the rate at which stabilized compost is utilized by agricultural users and other consumers, the operator may request in writing that the stabilized compost be temporarily excluded from the calculation of the 12,500 cubic yard maximum material allowed on-site ("seasonal storage adjustment"). At the EA's discretion, the seasonal storage adjustment for stabilized compost may be extended to the storage time and storage volume specified in the land use entitlement for the site if the EA finds, on the basis of substantial evidence, that the adjustment does not increase the potential harm to public health and safety, and the environment. The EA shall respond in writing to the operator's request within 30 days of receipt. The EA may impose any reasonable conditions on the seasonal storage adjustment. The initial term seasonal storage adjustment may not exceed the storage time specified in the land use entitlement or 30 days, whichever is less. The seasonal storage adjustment may be extended by one or more additional 30-day periods not exceeding the storage time

specified in the land use entitlement or a total of 90 days per calendar year, whichever is less.

(A) With its request for a seasonal storage adjustment, the operator shall submit to the LEA a storage plan containing the following:

A description of the storage capacity including the assumptions, methods, and calculations used to determine total storage capacity.

The maximum and average lengths of time the compostable material will be stored.

A schematic drawing showing the general layout of the operation and the location(s) where all materials at the site are stored with specific identification of the proposed location of the excess material.

A description of any additional fire prevention, protection and control measures needed to minimize the risk of fire from the temporary increase in site capacity and to control and extinguish any such fires, which measures shall be approved by the local fire authority.

Where applicable, any revisions to the odor impact minimization plan necessary to address the storage of the additional material or a statement, with supporting information, that no revisions are necessary.

(b) If a green material composting operation or facility exceeds any combination of the following requirements three (3) or more times within any two (2) year period, which the EA determines constitutes a violation of this Chapter, the facility no longer qualifies for an EA Notification under this Section:

(1) Receipt of material that contains greater than 1.0% physical contaminants by dry weight as specified in Section 17852(a)(21);

(2) Failure to comply with the processing requirements set forth in Section 17868.5;

(3) Failure to comply with the maximum volume on-site at any one time limit set forth in subdivision (a) above.

Upon the third such violation, the EA shall notify the operator in writing that the facility no longer qualifies for an EA Notification, and the operator must within 30 days apply for a Compostable Materials Handling Facility Permit pursuant to Section 17854. In addition, the EA shall issue a cease and desist order pursuant to Section 18304 directing, among other things, that the operator immediately cease accepting material at the site until the operator has demonstrated to the EA that it has corrected the violation and eliminated the cause of the violation. Notwithstanding, the EA may at any time take any additional enforcement action the EA deems appropriate.

(c) A site that handles more than 12,500 cubic yards of feedstock, chipped and ground material, amendments, additives, active compost and stabilized compost on-site at any

time is a green material composting facility, excepting green material composting operations which the EA has authorized a seasonal storage adjustment pursuant to subdivision (a)(2) above. Green material composting facilities shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3, and 3.1 (commencing with Section 21450) prior to commencing operations. Green material composting facilities shall comply with the applicable requirements specified in this Chapter 3.1.

[Note: see Section 17868.5 for green material processing requirements.]

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17857.2. Vegetative Food Material Composting Facilities.

(a) A vegetative food material composting facility may have up to 12,500 cubic yards of feedstock, chipped and ground material, amendments, additives, active compost, and stabilized compost on-site at any one time and shall obtain a Registration Permit pursuant to the requirements of Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0, prior to commencing operations and shall comply with the applicable requirements of this Chapter.

(b) A vegetative food material composting facility that has more than 12,500 cubic yards of feedstock, chipped and ground material, amendments, additives, active compost, and stabilized compost on-site at any one time shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3, and 3.1 (commencing with Section 21450) prior to commencing operations and shall comply with the applicable requirements of this Chapter. *[Note: See Section 17868.5 for green material and vegetative food material processing requirements.]*

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17858 Animal Material Composting Facilities [Repealed]

Section 17859. Sewage Sludge Composting Facilities [Repealed]

Section 17859.1. Biosolids Composting at POTWs.

(a) Except as provided in Section 17855(a)(5)(B), the composting of biosolids on-site at a Publicly Owned Treatment Works (POTW) shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100).

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency.

The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

(b) All other composting of biosolids shall comply with Section 17854.

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

Reference: *Sections 43020 and 43021, Public Resources Code, Title 40, Chapter I, Subchapter O, Part 503, of the Code of Federal Regulations.*

Section 17860. Mixed Solid Waste Composting Facilities. [Repealed]

Section 17861. Application Process for Green Compost Permit. [Repealed]

Section 17862. Research Composting Operations.

(a) An operator conducting research composting operations shall not have more than 5,000 cubic-yards of feedstock, chipped and ground material, amendments, additives, active compost and stabilized compost on-site at any one time, and shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100), except as otherwise provided by this Chapter.

(b) An operator conducting research composting operations utilizing within-vessel processing, may exceed 5,000 cubic-yards of feedstock, chipped and ground material, additives, amendments, active compost, and stabilized compost, if the EA determines that such increased volume will not pose additional risk to the public health, safety and the environment.

(c) In addition to the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0, Section 18103.1 (a)(3), the operator shall provide a description of the research to be performed, research objectives, methodology/protocol to be employed, data to be gathered, analysis to be performed, how the requirements of this subchapter will be met, and the projected timeframe for completion of the research operation.

(d) After no more than a two-year period of operation, the operator of a research composting operation shall submit to the EA a report that includes the results and conclusions drawn from the research. If the EA determines based on the report that there are further research objectives to be met or data to be gathered, the EA may extend the research for a specified time period not to exceed two years. If the EA determines based on the report that there are no further research objectives to be met or data to be gathered, the operator shall conduct site restoration at the facility pursuant to Section 17870, or obtain other appropriate authorization pursuant to Article 2 of this Chapter prior to continuing operations.

(e) Research composting operations that will be using unprocessed mammalian tissue

as a feedstock for the purpose of obtaining data on pathogen reduction or other public health, animal health, safety, or environmental protection concern, shall satisfy the following additional requirements:

(1) Unprocessed mammalian tissue used as feedstock shall be generated from on-site agricultural operations, and all products derived from unprocessed mammalian tissue shall be beneficially used on-site.

(2) The operator shall prepare, implement and maintain a site-specific, research composting operation site security plan. The research composting site security plan shall include a description of the methods and facilities to be employed for the purpose of limiting site access and preventing the movement of unauthorized material on to or off of the site.

(3) After no more than a six-month period of operation, the operator of a research composting operation using unprocessed mammalian tissue as feedstock shall submit to the EA a report that includes the results and conclusions drawn from the research and documentation of additional requirements of this Section. If the EA determines based on the report that there are further research objectives to be met or data to be gathered, the EA may extend the research for a specified time period not to exceed two years. If the EA determines based on the report that there are no further research objectives to be met or data to be gathered, the operator shall conduct site restoration at the facility pursuant to Section 17870, or obtain other appropriate authorization pursuant to Article 2 of this Chapter prior to continuing operations.

(f) The operator shall submit all additional documentation required by subsections (c) and (e)(2) to the EA with the EA Notification and prior to the composting of any feedstock. The EA shall determine that the EA Notification for research composting operations is complete and correct only if the additional documentation requirements of this Section have been met.

(g) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17862.1. Chipping and Grinding Operations and Facilities.

(a) A chipping and grinding operation that receives up to 200 tons per day of material that may be handled by a green material composting operation shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100), and the applicable

requirements specified in this Chapter.

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

(b) A chipping and grinding facility that receives more than 200 tons per day, but not more than 500 tons per day, of material that may be handled by a green material composting operation shall obtain a Registration Permit pursuant to the requirements of Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0, prior to commencing operations and shall comply with the applicable requirements of this Chapter.

(c) A chipping and grinding facility that receives more than 500 tons per day of material that may be handled by a green material composting operation shall obtain a Compostable Materials Handling Facility Permit pursuant to the requirements of Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3, and 3.1 (commencing with Section 21450) prior to commencing operations and shall comply with the applicable requirements of this Chapter.

(d) On and after January 1, 2018, a chipping and grinding operation or facility shall sample every 5,000 cubic-yards of chipped and ground material produced and determine the percentage of physical contaminants greater than 4 millimeters in the sample using a method that provides accurate results and has been approved by the EA. If the chipping and grinding operation or facility produces less than 5,000 cubic-yards of chipped and ground material in a 12 month period, the operator shall analyze at least one composite sample of chipped and ground material produced every 12 month period. The determination of the percentage of physical contaminants shall occur prior to the point where material is removed from the site. A chipping and grinding operation or facility shall not be subject to the provisions of Section 17868.3.1 of this Chapter, however any chipped and ground material that will be land applied must meet the physical contamination requirements of Section 17852(a)(24.5)(A)(1).

(e) A chipping and grinding operation of facility shall not be subject to the provisions of Sections 17868.1 through 17868.3 of this Chapter, however, any chipped and ground material that will be land applied must meet the maximum metal concentration and pathogen reduction requirements of Section 17852(a)(24.5)(A)(2) and (3).

(f) If a chipping and grinding operation or facility exceeds the contamination limits specified in Section 17852(a)(21), it shall be regulated as set forth in the Transfer/Processing Regulatory requirements (commencing at Section 17400).

(g) If a chipping and grinding operation or facility stores material for a longer period of time than is allowed by Section 17852(a)(10)(A)(2), it shall be regulated as a green material composting operation or facility, as set forth in this Chapter.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17862.2 Storage [Repealed]

Article 3. Report of Facility Information

Section 17863. Report of Composting Site Information.

Each operator of a compostable material handling facility that is required to obtain a Compostable Materials Handling Facility Permit or a Registration Permit for a Vegetative Food Material Composting Facility, as specified in Article 2 of this Chapter, shall, at the time of application, file a Report of Composting Site Information with the EA. If the operator intends to alter the permitted feedstock, these changes must be reported to the EA for maintenance of permit status. Such changes may become the basis for revisions to the permit or for revocation of the permit.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17863.4. Odor Impact Minimization Plan.

(a) All compostable material handling operations and facilities shall prepare, implement and maintain a site-specific odor impact minimization plan. A complete plan shall be submitted to the EA with the EA Notification or permit application.

(b) Odor impact minimization plans shall provide guidance to on-site operation personnel by describing, at a minimum, the following items. If the operator will not be implementing any of these procedures, the plan shall explain why it is not necessary.

(1) an odor monitoring and data collection protocol for on-site odor sources, which describes the proximity of possible odor receptors and a method for assessing odor impacts at the locations of the possible odor receptors; and,

(2) a description of meteorological conditions effecting migration of odors and/or transport of odor-causing material off-site. Seasonal variations that effect wind velocity and direction shall also be described; and,

(3) a complaint response and recordkeeping protocol; and,

(4) a description of design considerations and/or projected ranges of optimal operation to be employed in minimizing odor, including method and degree of aeration, moisture content of materials, feedstock characteristics, airborne emission production, process water distribution, pad and site drainage and permeability, equipment reliability, personnel training, weather event impacts, utility service interruptions, and site specific

concerns as applicable; and,

(5) a description of operating procedures for minimizing odor, including aeration, moisture management, feedstock quality, drainage controls, pad maintenance, wastewater pond controls, storage practices (e.g., storage time and pile geometry), contingency plans (i.e., equipment, water, power, and personnel), biofiltration, and tarping as applicable.

(c) The odor impact minimization plan shall be revised to reflect any changes, and a copy shall be provided to the EA, within 30 days of those changes.

(d) The odor impact minimization plans shall be reviewed annually by the operator to determine if any revisions are necessary.

(e) The odor impact minimization plan shall be used by the EA to determine whether or not the operation or facility is following the procedures established by the operator. If the EA determines that the odor impact minimization plan is not being followed, the EA may issue a Notice and Order (pursuant to Section 18304) to require the operator to either comply with the odor impact minimization plan or to revise it.

(f) If the odor impact minimization plan is being followed, and the EA determines, in a manner consistent with Section 18302(d), that odor impacts are still occurring, the EA shall direct the operator to prepare and implement an Odor Best Management Practice Feasibility Report (Report) as specified in Section 17863.4.1. The EA shall consider the results of the Report prior to issuing a Notice and Order (pursuant to Section 18304) requiring the operator to take additional reasonable and feasible measures to minimize odors unless:

(1) the EA has evidence that a specific and immediate action would reduce the odor impacts;

(2) there is an imminent threat to public health and safety and the environment; or

(3) a nuisance has occurred.

Authority cited: *Sections 40502, 43020, 43021 and 43209.1, Public Resources Code.*

Reference: *Sections 43020, 43201 and 43209.1, Public Resources Code.*

Section 17863.4.1. Odor Best Management Practice Feasibility Report.

(a) The operator may voluntarily prepare an Odor Best Management Practice Feasibility Report (Report) or the EA may require the operator to prepare a Report after consecutive or chronic odor violations as determined pursuant to Section 17863.4(f).

(b) The Report shall:

(1) Present representative and correlating odor data for each potential onsite odor source including but not limited to: odor severity, odor characteristics, time and weather

conditions when data was collected, description of operations associated with the source, and any odor impacts or complaints received;

(2) Identify, based on data required in subdivision (b)(1), which onsite odor sources are and are not contributing to odor impacts and rank those contributing to the odor impacts (complaints/violations) in order of impact;

(3) For odor sources contributing to odor impacts, as identified above in subdivision (b)(2):

(A) List of all best management practices (BMPs), using the Comprehensive Compost Odor Response Project (CCORP) or other industry-accepted practice(s) as a guideline, which the operator has used to minimize odor and analyze each BMP for the following:

The effectiveness of the BMP in reducing odor impacts;

The potential for more extensive use of the BMP to minimize odor impacts described by complainants;

If the BMP has been operationally practical and if more extensive use of the BMP would be operationally practical;

The approximate cost to implement a more extensive use of the BMP;

Any permits or permit changes necessary to use the BMP more extensively;

Overall recommendation if existing BMPs should be continued and if more extensive use of the BMP is recommended; and

If the BMP has been found to be ineffective (include supporting data).

(B) List of all potential best management practices (BMPs), using the Comprehensive Compost Odor Response Project (CCORP) or other industry-accepted practice(s) as a guideline, which the operator has not used and analyze each potential BMP to determine:

The potential for the BMP to reduce odor impacts described by complainants;

If the BMP is operationally practical;

The approximate cost to implement the BMP;

Any permits or permit changes necessary to use the BMP; and

Overall recommendation and ranking of implementing the BMP.

(C) Develop a plan and schedule for implementing the BMP(s) that are recommended, based on the analysis conducted pursuant to subdivision (b)(3)(A) and (B).

(c) The operator shall submit the Report required by subdivisions (a) and (b), and the plan and schedule required by subdivision (b)(3)(C), to the EA and the Department for review. If the EA has required the operator to prepare a Report pursuant to subdivision (a), the operator shall submit the plan and schedule within 14 days or other timeframe approved by the EA.

(d) The EA, in consultation with the Department, shall within 30 days:

(1) approve the Report and associated plan and direct the operator in writing to implement the plan in whole or in part; and/or

(2) direct the operator in writing to submit specific changes or additional information within a timeframe specified by the EA.

(e) The EA may issue a Notice and Order pursuant to Section 17863.4(f) to carry out subdivision (d)(1) or (d)(2).

Authority cited: *Section 40502, 43020, 43021 and 43209.1, Public Resources Code.*
Reference: *Sections 43020, 43021 and 43209.1, Public Resources Code.*

Article 4. Standardized Composting Permit Terms and Conditions [Repealed]

Article 5. Composting Operation and Facility Siting and Design Standards

Section 17865. Siting On Landfills.

(a) Compostable materials handling operations and facilities located atop closed solid waste landfills shall meet postclosure land use requirements pursuant to Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 3, Subchapter 5, Article 2, Section 21190.

(b) Compostable materials handling operations and facilities sited on intermediate cover on a solid waste landfill shall locate operations areas on foundation substrate that is stabilized, either by natural or mechanical compaction, to minimize differential settlement, ponding, soil liquefaction, or failure of pads or structural foundations.

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

Section 17866. General Design Requirements.

(a) Compostable materials handling operations and facilities shall be designed and constructed in such a manner as to enable the operations and facilities to comply with the operational requirements set forth in Article 6 of this Chapter.

(b) The design of a compostable materials handling facility shall utilize advice, as

appropriate, from persons competent in engineering architecture, landscape design, traffic engineering, air quality control, and design of structures.

(1) The engineering design of a compostable materials handling facility shall be in accordance with the principles and disciplines in the State of California generally accepted for design of this type of facility. The design of a composting facility⁰ requiring a Compostable Materials Handling Facility Permit shall accompany the Report of Composting Site Information, pursuant to Section 17863 of this Chapter.

(2) The engineering design shall be based on appropriate data regarding the service area, anticipated nature and quantity of material to be received, climatological factors, physical settings, adjacent land use (existing and planned), types and numbers of vehicles anticipated to enter the station, drainage control, the hours of operation and other pertinent information. If the station is to be used by the general public, the design of the facility shall take account of features that may be needed to accommodate such public use.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Article 6. Composting Operating Standards

Section 17867. General Operating Standards.

(a) All compostable materials handling operations and facilities shall meet the following requirements:

(1) All handling activities are prohibited from composting any material specified in section 17855.2 of this Chapter.

(2) All handling activities shall be conducted in a manner that minimizes odor impacts so as to not cause a nuisance.

(3) All handling activities shall be conducted in a manner that minimizes vectors, litter, hazards, nuisances, and noise impacts; and minimizes human contact with, inhalation, ingestion, and transportation of dust, particulates, and pathogenic organisms.

(4) Random load checks of feedstocks, additives, and amendments for contaminants shall be conducted.

(5) Contamination of compostable materials that has undergone pathogen reduction, pursuant to section 17868.3 of this Chapter, with feedstocks, compost, or wastes that have not undergone pathogen reduction, pursuant to section 17868.3 of this Chapter, or additives shall be prevented.

(6) Unauthorized human or animal access to the facility shall be prevented.

(7) Traffic flow into, on, and out of the composting operation or facility shall be controlled in a safe manner.

(8) All compostable materials handling operations and facilities that are open for public business shall post legible signs at all public entrances. These signs shall include the following information:

(A) name of the operation or facility,

(B) name of the operator,

(C) facility hours of operation,

(D) materials that will and will not be accepted, if applicable,

(E) schedule of charges, if applicable, and

(F) phone number where operator or designee can be reached in case of an emergency.

(9) The operator shall provide fire prevention, protection and control measures, including, but not limited to, temperature monitoring of windrows and piles, adequate water supply for fire suppression, and the isolation of potential ignition sources from combustible materials. Firelanes shall be provided to allow fire control equipment access to all operation areas.

(10) The operator shall provide telephone or radio communication capability for emergency purposes.

(11) Physical Contaminants and refuse removed from feedstock, compost, or chipped and ground material shall be removed from the site within 7 days and transported to an appropriate facility.

(12) Enclosed operations and facilities shall provide ventilation to prevent adverse public health effects from decomposition gases.

(13) The operator shall ensure that leachate is controlled to prevent contact with the public.

(14) The operator shall prevent or remove physical contaminants in compost and chipped and ground materials that may cause injury to humans.

(15) An attendant shall be on duty during business hours if the operation or facility is open to the public.

(16) The operator shall determine the quarterly percentage of organic waste contained in materials sent to landfill disposal.

(A) To determine the percentage, the operator shall measure the amount of organic waste by weight present in the materials sent to landfill disposal.

1. The measurements required pursuant to this section shall be conducted at the following frequency:

i. For each reporting period, the operator shall perform the sampling protocol required in Subdivision (a)(16)(B) over at least ten (10) consecutive operating days.

ii. 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 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(B) The operator shall comply with Subdivision (a)(16)(A) by using the following protocol:

1. Take one sample of at least two hundred (200) pounds of the materials that the operation or facility is sending to landfill disposal on that operating day. Each sample shall be:

i. Representative of a typical operating day; and

ii. A random, composite sample taken either from various times during the operating day or from various locations within the pile(s) of material that will be sent to disposal.

2. Record the 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.

3. Remove any material that is not organic waste and determine the remaining weight of the organic waste in the sample.

4. Then determine the ratio of organic waste present in the materials removed for landfill disposal by dividing the total from Subdivision (a)(16)(B)3 by the total from Subdivision (a)(16)(B)2.

5. Determine the total weight of organic waste that is sent to landfill disposal by multiplying the ratio determined pursuant to Subdivision (a)(16)(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 materials that is sent to landfill disposal as determined pursuant to Subdivision (a)(16)(B)5.

7. Determine the ratio of organic waste sent to landfill disposal by dividing the total from Subdivision (a)(16)(B)6 by the total outgoing weights of material that is sent to landfill disposal.

8. Determine the percentage of organic waste present in the material sent to landfill disposal by multiplying the ratio as determined pursuant to Subdivision (a)(16)(B)7 by 100.

(C) The operator shall conduct a measurement in the presence of the EA when requested.

(D) 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.

(E) An alternative measurement protocol for determining the amount of organic waste sent to landfill disposal may be approved by the EA, with concurrence by the Department. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article. The Department shall concur with EA approval if it finds that the alternative measurement protocol will ensure that the measurements will be as accurate as those in Subsection (a)(16)(A) and (B), above.

(F) For the purposes of the measurements required by this Subdivision, organic waste that are textiles, carpet, hazardous wood waste, non-compostable paper, human or pet waste, and material subject to a quarantine on movement issued by a county agricultural commissioner, is not required to be measured as organic waste.

(G) Organic waste sent to an activity listed in Section 18983.1(a) shall constitute landfill disposal.

Note:

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

Reference: Sections 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 17867.5. Training.

(a) Compostable materials handling operations and facilities shall meet the following requirements:

(1) Operators shall ensure that all personnel assigned to the operation shall be trained in subjects pertinent to operations and maintenance, including the requirements of this Article, physical contaminants and hazardous materials recognition and screening, with emphasis on odor impact management and emergency procedures. A record of such training shall be maintained on the site.

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

Reference: Sections 43020 and 43021, Public Resources Code.

Article 7. Environmental Health Standards

Section 17868.1. Sampling Requirements

All composting operations that sell or give away greater than 1,000 cubic yards of compost annually, and all composting facilities shall meet the following requirements:

(a) Operators shall verify that compost meets the maximum acceptable metal concentration limits specified in Section 17868.2, and pathogen reduction requirements specified in Section 17868.3. Verification of maximum acceptable metal concentrations and pathogen reduction requirements shall occur prior to the point where compost is removed from the site or beneficially used on-site. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced. This verification shall be performed by taking and analyzing at least one composite sample of compost, following the requirements of this Section as follows:

(1) An operator who composts agricultural material, green material, food material, vegetative food material or mixed material shall take and analyze one composite sample for every 5,000 cubic-yards of compost produced. If the composting operation or facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period.

(2) An operator who composts biosolids shall meet the sampling schedule described in Table 2 below.

Table2 : Frequencies of Compost Sampling for Biosolids Composting Facilities

<i>Amount of Biosolids Compost Feedstock (metric tons per 365 day period)</i>	<i>Frequency</i>
Greater than zero but fewer than 290	annually
Equal to or greater than 290 but fewer than 1,500	quarterly
Equal to or greater than 1,500 but fewer than 15,000	bimonthly
Equal to or greater than 15,000	monthly

(A) The amount of biosolids compost feedstock shall be calculated in dry weight metric tons.

(3) Composite sample analysis for maximum acceptable metal concentrations, specified in Section 17868.2, shall be conducted at a laboratory certified by the California Department of Public Health, pursuant to the Health and Safety Code.

(b) A composite sample shall be representative and random, and may be obtained by taking twelve (12) mixed samples as described below.

(1) The twelve samples shall be of equal volume.

(2) The twelve samples shall be extracted from within the compost pile as follows:

(A) Four samples from one-half the width of the pile, each at a different cross-Section;

(B) Four samples from one-fourth the width of the pile, each at a different cross-Section; and,

(C) Four samples from one-eighth the width of the pile, each at a different cross-Section.

(c) The EA may approve alternative methods of sampling that ensures the maximum metal concentration requirements of Section 17868.2 and the pathogen reduction requirements of Section 17868.3 are met.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17868.2. Maximum Metal Concentrations.

(a) Compost shall not contain metals in excess of the maximum acceptable metal concentrations shown in Table 3. Compost that contains any metal in excess of any maximum metal concentrations shall be designated for additional processing, disposal, or other use as approved by local, state and federal agencies having jurisdiction. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.

Table 3, Maximum Acceptable Metal Concentrations

Constituent	Concentration (mg/kg) on dry weight basis
Arsenic (As)	41
Cadmium (Cd)	39
Chromium (Cr)	(see subdivision(a)(1) below)
Copper (Cu)	1500
Lead (Pb)	300
Mercury (Hg)	17
Nickel (Ni)	420
Selenium (Se)	100
Zinc (Zn)	2800

(1) Although there is no maximum acceptable metal concentration for chromium in compost, operators subject to subdivision (a) shall arrange for concentrations of chromium in compost they produce to be determined in connection with the analysis of other metals. Operators shall maintain records of all chromium concentrations together with their records of other metal concentrations.

(b) Alternative methods of compliance to meet the requirements of this Section; may be approved by the EA if the EA determines that the alternative method will ensure that the maximum acceptable metal concentrations shown in Table 3 are not exceeded.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17868.3. Pathogen Reduction.

(a) Compost shall not exceed the maximum acceptable pathogen concentrations described in Subdivision (b) of this Section. Compost that contains any pathogens in amounts that exceed these pathogen reduction requirements shall be designated for additional processing, disposal, or other use as approved by local, state or federal agencies having appropriate jurisdiction. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.

(b) Operators that produce compost shall ensure that:

(1) The density of fecal coliform in compost, that is or has at one time been active compost, shall be less than 1,000 Most Probable Number per gram of total solids (dry weight basis), and the density of Salmonella sp. bacteria in compost shall be less than three (3) Most Probable Number per four (4) grams of total solids (dry weight basis).

(2) At enclosed or within-vessel composting process operations and facilities, active compost shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days.

(A) Due to variations among enclosed and within-vessel composting system designs, including tunnels, the operator shall submit a system-specific temperature monitoring plan with the permit application to meet the requirements of Subdivision (b)(2) of this Section.

(3) If the operation or facility uses a windrow composting process, active compost shall be maintained under aerobic conditions at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 15 days or longer. During the period when the compost is maintained at 55 degrees Celsius or higher, there shall be a minimum of five (5) turnings of the windrow.

(4) If the operation or facility uses an aerated static pile composting process, all active compost shall be covered with 6 to 12 inches of insulating material, and the active compost shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days.

(c) Compost operations and facilities that utilize a windrow composting process or an aerated static pile composting process shall be monitored as follows to ensure that the standards in Subdivision (b) of this Section are met:

(1) Each day during the pathogen reduction period, at least one temperature reading shall be taken per every 150 feet of windrow, or fraction thereof, or for every 200 cubic-yards of active compost, or fraction thereof.

(2) Temperature measurements for pathogen reduction shall be measured as follows:

(A) Windrow composting processes and agitated bays shall be monitored twelve (12) to twenty-four (24) inches below the pile surface;

(B) Aerated static pile composting processes shall be monitored twelve (12) to eighteen (18) inches from the point where the insulation cover meets the active compost.

(d) Alternative methods of compliance to meet the pathogen reduction requirements of this Section may be approved by the EA if the EA determines that the alternative method will provide equivalent pathogen reduction.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17868.3.1. Physical Contamination Limits.

This Section shall become operative January 1, 2018.

(a) Compost shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters. Compost that contains physical contaminants in excess of either one or both of these limits shall be designated for additional processing, disposal or other use as approved by local, state or federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur prior to the point where compost is removed from the site or beneficially used on-site. Test results of samples must be received by the operator prior to removing compost from the composting operation or facility where it was produced.

(b) The operator of a compostable material handling operation or facility shall sample every 5,000 cubic-yards of compost produced and determine the percentage of physical contaminants greater than 4 millimeters in the sample using a method that provides accurate results and has been approved by the EA. If the compostable material handling operation or facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period.

(c) If the EA has reason to believe, based on the EA's visual observation or otherwise, that a determination of percent physical contaminants made pursuant to Section 17868.3.1(b) is not accurate, the EA may require an operator of a compostable material handling operation or facility to take a composite sample of compost in the presence of the EA and send the sample to a laboratory at which physical contaminants greater than 4 millimeters shall be collected and weighed to determine the percentage of physical contaminants by dry weight using the following protocol:

(1) Determine the total dry weight of the composite sample as obtained in Section 17868.3.1(d);

(2) Separate the physical contaminants greater than 4 millimeters from the composite sample and determine the dry weight of the physical contaminants;

(3) Determine the percentage of physical contaminants by dividing the dry weight of the physical contaminants by the total dry weight of the composite sample.

(d) Any sampling conducted to comply with this Section shall require a composite sample. A composite sample shall be representative and random, and may be obtained by taking twelve (12) mixed samples as described below.

(1) The twelve samples shall be of equal volume.

(2) The twelve samples shall be extracted from within the compost pile as follows:

(A) Four samples from one-half the width of the pile, each at a different cross-Section;

(B) Four samples from one-fourth the width of the pile, each at a different cross-Section; and,

(C) Four samples from one-eighth the width of the pile, each at a different cross-Section.

(e) Alternative methods of compliance to meet the requirements of this Section may be approved by the EA if the EA determines that the alternative method will ensure the physical contamination limits requirements of this Section are met.

Authority cited: *Section 40502, 43020 and 43021, Public Resources Code.*

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17868.4 Clean Green Material Processing Requirements. [Repealed]

Section 17868.5. Green Material and Vegetative Food Material Processing Requirements.

Green material, as defined in Section 17852(a)(21), and vegetative food material, as defined in Section 17852(a)(20)(A), must satisfy the following requirements:

(a) The feedstock shall undergo load checking to ensure that physical contaminants are no greater than 1.0 percent of total weight. Load checking shall include both visual observation of incoming waste loads and load sorting to quantify the percentage of physical contaminants and detect receipt of unacceptable feedstock (e.g., feedstock that does not meet the definition of green material or vegetative food material).

(1) A minimum of ten percent of daily incoming feedstock volume or at least one truck per day, whichever is greater, shall be inspected visually. If a visual load check indicates a physical contamination level greater than 1.0 percent, a representative sample shall be taken, physical contaminants shall be collected and weighed, and the percentage of physical contaminants determined. The load shall be rejected if physical contaminants are greater than 1.0 percent of total weight or if the load contains materials that do not meet the definitions of green material in Section 17852(a)(21) or vegetative food material in Section 17852(a)(20)(A).

(b) Upon request of the EA, and in the presence of the EA, the operator shall take a representative sample of feedstock, physical contaminants shall be collected and weighed, and the percentage of physical contaminants determined.

(c) Facility personnel shall be adequately trained to perform the activities specified in this Section.

(d) Any operation or facility using this feedstock shall maintain records demonstrating compliance with this Section.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Article 8. Composting Operation and Facility Records

Section 17869. General Record Keeping Requirements.

Except as provided in subsection (d), all compostable materials handling operations and facilities shall meet the following requirements:

(a) All records required by this Chapter shall be kept in one location and accessible for five (5) years and shall be available for inspection by authorized representatives of the Department, EA, local health entity, and other duly authorized regulatory and EAs during normal working hours.

(b) The operator shall record any special occurrences encountered during operation and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures.

(c) The operator shall record any public complaints received by the operator, including:

(1) the nature of the complaint,

(2) the date the complaint was received,

(3) if available, the name, address, and telephone number of the person or persons making the complaint, and

(4) any actions taken to respond to the complaint.

(d) The operator shall maintain records listed in this subdivision in a form and manner approved by the EA. Agricultural compostable materials handling operations shall maintain records only for compostable material accepted from off-site. Such records shall be adequate for overall planning and control purposes and be as current and accurate as practicable. The records shall be maintained for five (5) years in the operating record and be available for review by the appropriate jurisdiction of origin, haulers, and other duly authorized regulatory agencies.

(e) The operator shall maintain the following records under this section

(1) The quarterly percentage of organic waste contained in materials sent to landfill disposal as calculated pursuant to Section 17867(a)(16).

(2) Daily outgoing weights of material sent to disposal.

(3) Daily outgoing weights of compost or chipped and ground material produced.

(4) Daily incoming weights by material type.

(5) The weight of compostable material sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation.

(f) The operator shall record all test results generated by compliance with Article 7 of this Chapter, including but not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities, temperature measurements, and dates of windrow turnings; chipping and grinding operations and facilities must record the determinations of the percentage of physical contaminants required by 17862.1(d).

(1) The operator shall retain records detailing pathogen reduction methods.

(g) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement.

(h) The operator shall retain a record of training and instruction completed in accordance with section 17867.5.

(i) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815.1 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.

(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). The EA shall conduct such verification through:

(1) The review of records required by this section; and

(2) The periodic, direct observation of measurements at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with this section.

(k) If, at any time, the EA determines that the records required by this section indicate that compostable material is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination(s). 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.

Note:

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

Reference: Sections 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Article 9. Composting Facility Site Restoration

Section 17870. Site Restoration

All compostable materials handling operations and facilities shall meet the following requirements:

(a) The operator shall provide the EA written notice of intent to perform site restoration, at least 30 days prior to beginning site restoration.

(b) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operations and termination of service:

(1) The operation and facility grounds, ponds, and drainage areas shall be cleaned of all residues including, but not limited to, compost materials, construction scraps, and other materials related to the operations, and these residues legally recycled, reused, or disposed of.

(2) All machinery shall be cleaned and removed or stored securely.

(3) All remaining structures shall be cleaned of compost materials, dust, particulates, or other residues related to the composting and site restoration operations.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17871. Geological Siting Requirements. [Repealed]

Section 17873. General Facility Design Requirements. [Repealed]

Section 17875. General Facility Operations Procedures for Exempted and Non-Exempted Composting Facilities. [Repealed]

Section 17876. General Facility Operations Procedures for Non-Exempted Composting Facilities. [Repealed]

Section 17877. Record Maintenance Requirements. [Repealed]

Section 17879. Site Closure Standards. [Repealed]

Section 17881. Purpose, Scope, and Applicability. [Repealed]

Section 17883. Compliance with Laws and Regulations. [Repealed]

Section 17885. General Requirements. [Repealed]

Section 17886. Compliance Period. [Repealed]

Section 17887. Environmental Health Standards. [Repealed]

Section 17889. Compliance Monitoring Program. [Repealed]

Section 17891. Noncompliance and Green Composting Permit Modification. [Repealed]

Section 17893. Specific Exemptions. [Repealed]

Section 17895. Reporting Requirements. [Repealed]

Chapter 3.2. In-Vessel Digestion Operations and Facilities Regulatory Requirements

SubChapter Ghost Header for Outline ADA Compliance

Article 1. In-Vessel Digestion Operations and Facilities Regulatory Requirements

Section 17896.1. Authority and Scope.

(a) This Chapter sets forth permitting requirements and minimum operating standards for in-vessel digestion operations and facilities that receive and process by means of in-vessel digestion solid wastes that are subject to the requirements of this Chapter. The regulatory tier requirements of Sections 17896.3 through 17896.15 are not applicable to operations and facilities that are subject to regulations elsewhere in this Division. Activities placed within the excluded tier in other chapters of this Division, may still be subject to the regulatory requirements specified in this Chapter.

(b) This Chapter is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. These regulations should be read together with the Act.

(c) Digestion of organic material can be a naturally occurring or an artificially controlled process. This Chapter establishes standards and regulatory requirements for the intentional processing of organic material by means of in-vessel digestion.

(d) This Chapter implements and interprets those provisions of the Act relating to receipt, storage, handling, recovery, transfer, or processing of solid waste at in-vessel digestion operations and facilities. Nothing in this Chapter limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor limits or restricts cities and counties from promulgating and enforcing laws which are as strict or stricter than the regulations contained in this Chapter. However, no city or county may promulgate or enforce laws which otherwise conflict with the provisions of this Chapter.

(e) No provision in this Chapter shall be construed as relieving any owner, operator, or designee from obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, regional water quality control boards, Department of Toxic Substances Control, California Department of Industrial Relations, Division of Occupational Safety and Health, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.2. Definitions.

(a) For the purposes of this Chapter:

(1) "Agricultural Material" means waste material of plant or animal origin, which results directly from the conduct of agriculture, animal husbandry, horticulture, aquaculture, vermiculture, viticulture and similar activities undertaken for the production of food or fiber for human or animal consumption or use, which is separated at the point of generation, and which contains no other solid waste. With the exception of grape pomace, 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. Material that is defined in this Section 17852 as "food material" or "vegetative food material" is not agricultural material. Agricultural material includes, but is not limited to, manures, orchard and vineyard prunings, grape pomace, and crop residues.

(2) "Agricultural Site" means activities located on land that is zoned for agricultural uses.

(3) "Biogas" is a gas resulting from the operation of an in-vessel digester at an in-vessel digestion operation or facility that is composed primarily of carbon dioxide, hydrogen, and methane.

(4) "Compost" means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility.

(5) "Contact Water" means water that has come in contact with waste and may include leachate.

(6) "Digestate" means the solid and/or liquid residual material remaining after organic material has been processed in an in-vessel digester.

(7) "Digestion" means, pursuant to PRC 40116.1, the controlled biological decomposition, of organic solid wastes. Digestion includes:

(A) Aerobic digestion - the controlled biological decomposition of organic material in the presence of oxygen.

(B) Anaerobic digestion - the controlled biological decomposition of organic material in the absence of oxygen or in an oxygen-starved environment. Anaerobic digestion produces biogas and a residual digestate.

(C) Other controlled biological decomposition processes.

(8) "Dairy In-vessel Digestion Operation" means, except as otherwise specified in

Section 17896.6(a)(3), a dairy that receives imported solid waste feedstock for purposes of co-digestion, with manure in an in-vessel digester, in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board. The Dairy In-vessel Digestion Operation may also co-digest agricultural material.

(9) "Distribution Center In-vessel Digestion Operation" means a site that receives, for the purpose of digestion in an in-vessel digester, unsold products from retail stores to which the products were originally sent. All unsold products shall be collected and processed in covered, leak-proof containers, and remain in the custody of the owner at all times. All unsold products that are putrescible shall be refrigerated at the retail store and shall be maintained at a core temperature of 13 degrees Celsius (55 degrees Fahrenheit) or less during transport to the operation.

(10) "EA" means enforcement agency as defined in PRC Section 40130.

(11) "Film plastic" means sheet plastic 10 mil or less in thickness.

(12) "Food Material" means a waste material of plant or animal origin that results from the preparation or processing of food for animal or human consumption and that is separated from the municipal solid waste stream. Food material includes, but is not limited to, food waste from food facilities as defined in Health and Safety Code Section 113789 (such as restaurants), food processing establishments as defined in Health and Safety Code Section 111955, grocery stores, institutional cafeterias (such as prisons, schools and hospitals), and residential food scrap collection. Food material does not include any material that is required to be handled only pursuant to the California Food and Agricultural Code and regulations adopted pursuant thereto.

(A) "Vegetative Food Material" means that fraction of food material, defined above, that is a plant material and is separated from other food material and the municipal solid waste stream. Vegetative food material may be processed or cooked but must otherwise retain its essential natural character and no salts, preservatives, fats or oils, or adulterants shall have been added. Vegetative food material includes, but is not limited to, fruits and vegetables, edible flowers and plants, outdated and spoiled produce, and coffee grounds. Vegetative food material contains no greater than 1.0 of percent physical contaminants by dry weight, and meets the requirements of Section 17896.61.

(13) "Hazardous Wastes" means any waste which meets the definitions set forth in Title 22, Section 66261.3, et seq.

(14) "In-vessel Digester" means the sealed container(s) or sealed structure in which the entire digestion process occurs.

(15) "Large Volume In-vessel Digestion Facility" means a facility that receives an average greater than 100 tons of solid waste per operating day or greater than 700 tons (2,800 cubic yards) per week of solid waste for digestion in an in-vessel digester.

(16) "Limited Volume In-vessel Digestion Operation" means an operation that receives

less than an average of 15 tons (or 60 cubic yards) of solid waste per operating day but shall not exceed 105 tons (or 420 cubic yards) per week of solid waste for digestion in an in-vessel digester. Additionally, the operation shall not exceed solid waste storage capacity limitations of the general design of the operation.

(17) "Litter" means all solid waste which has been improperly discarded or which has migrated by wind or equipment away from the operations area. Litter includes, but is not limited to, convenience food, beverage, and other product packages or containers constructed of steel, aluminum, glass, paper, plastic, and other natural and synthetic materials, thrown or deposited on the lands and waters of the state.

(18) "Manure" is an agricultural material and means accumulated herbivore or avian excrement. This definition shall include feces and urine, and any bedding material, spilled feed, or soil that is mixed with feces or urine.

(19) "Medium Volume In-vessel Digestion Facility" means a facility that receives an average of between 15 tons (or 60 cubic yards) and 100 tons of solid waste per operating day but shall not exceed 700 tons (or 2,800 cubic yards) per week of solid waste for digestion in an in-vessel digester. Additionally, the facility shall not exceed solid waste storage capacity limitations of the general design of the facility.

(20) "Nuisance" includes anything which:

(A) is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and

(B) affects at the same time an entire community, neighborhood or any considerable number of persons. The extent of annoyance or damage inflicted upon an individual may be unequal.

(21) "On-site" means located within the boundary of the operation or facility.

(22) "Operating Day" means the daily hours of operation for a facility or operation as set forth in the application, Enforcement Agency Notification or solid waste facilities permit.

(23) "Operating Record" means an easily accessible collection of records of an operation's or facility's activities and compliance with required state minimum standards under Title 14. The Record may include the In-vessel Digestion Facility Plan or In-vessel Digestion Report for facilities, and shall contain but is not limited to containing: agency approvals, tonnage and load checking records, facility contacts and training history. The record may be reviewed by state and local authorities and shall be available during normal business hours. If records are too voluminous to place in the main operating record or if the integrity of the records could be compromised by on-site storage, such as exposure to weather, they may be maintained at an alternative site, as long as that site is easily accessible to the EA.

(24) "Operations Area" means:

(A) the following areas within the boundary of an operation or facility as described in the permit application or Enforcement Agency Notification:

equipment management area, including cleaning, maintenance, and storage areas; and material and/or solid waste management area, including unloading, handling, transfer, processing, and storage areas.

(B) the boundary of the operations area is the same as the permitted boundary of the operation or facility but may or may not be the same as the property boundary on which the operation or facility is located.

(25) "Operator" means the owner, or other person who through a lease, franchise agreement or other arrangement with the owner, that is listed in the permit application or Enforcement Agency Notification and is legally responsible for all of the following:

(A) complying with regulatory requirements set forth in these Articles;

(B) complying with all applicable federal, state and local requirements;

(C) the design, construction, and physical operation of the operations area;

(D) controlling the activities at an operation or facility as listed on the permit application or Enforcement Agency Notification.

(26) "Owner" means the person or persons who own, in whole or in part, an operation or facility and the land on which it is located. If the ownership of the operation or facility is not the same as the ownership of the land on which it is located, the owner of the land shall be identified as the "Land Owner" and the owner of the operation or facility shall be identified as the "Facility Owner."

(27) "Physical Contamination" or "Contaminants" means human-made inert material contained within compostable material, digestate, or compost, including, but not limited to, glass, metal, and plastic.

(28) "Putrescible Wastes" include wastes that are capable of being decomposed by micro-organisms with sufficient rapidity as to cause nuisances because of odors, vectors, gases or other offensive conditions, and include materials such as, but not limited to food wastes, offal and dead animals. The EA shall determine on a case-by-case basis whether or not a site is handling putrescible wastes.

(29) "Rendering" means all recycling, processing, and conversion of animal and fish materials and carcasses and inedible kitchen grease into fats, oils, proteins, and other products that are used in the animal, poultry, and pet food industries and other industries, as defined in Food and Agricultural Code Section 19213.

(30) "Salvaging" means the controlled separation of solid waste material which do not require further processing, for reuse or recycling prior to in-vessel digestion activities.

(31) "Scavenging" means the uncontrolled and/or unauthorized removal of solid waste materials.

(32) "Sealed Container" means a tank, vessel, or similar apparatus capable of containing liquids and air-borne emissions during the entire digestion process to control odors or other nuisance conditions.

(33) "Sealed Structure" means a fully enclosed building capable of containing liquids and controlling air-borne emissions (e.g., negative air pressure) that could contribute to odors or other nuisance conditions.

(34) "Special Waste" includes but is not limited to:

(A) waste requiring special collection, treatment, handling, storage, or transfer techniques as defined in Title 22, Section 66260.10.

(B) waste tires and appliances requiring the removal of mercury switches or chlorofluorocarbons.

(35) "Spotter" means an employee who conducts activities that include, but are not limited to, traffic control, hazardous waste recognition and removal for proper handling, storage and transport or disposal, and protection of the public from health and/or safety hazards.

(36) "Store" means to stockpile or accumulate for later use.

Authority cited: *Section 40502, 43020 and 43021, Public Resources Code.*

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.3. Pre-Existing Permits and Notifications

(a) If a facility had previously obtained a permit in accordance with regulations in effect prior to January 1, 2016, that facility may continue to operate in accordance with its permit until the EA conducts a permit review pursuant to Title 14, California Code of Regulations, Sections 18104.7 and 18105.9 and determines that regulation under this Chapter is required. If the EA makes such a determination, the operator shall comply with this Chapter within two years of that determination.

(b) If an operation had previously been operating pursuant to an EA Notification in accordance with regulations in effect prior to January 1, 2016, that operation may continue to operate in accordance with its EA Notification or regulatory authorization until the EA determines that regulation under this Chapter is required. The EA shall make this determination no sooner than 120 days and no later than two years from January 1, 2016. If the EA determines that regulation under this Chapter is required, the operator shall comply with this Chapter within two years of that determination.

(c) If an activity had previously been excluded from regulations in effect prior to January 1, 2016, that activity may continue to operate in accordance with its regulatory exclusion

until the EA determines that regulation under this Chapter is required. The EA shall make this determination no sooner than 120 days and no later than two years from January 1, 2016. If the EA determines that regulation under this Chapter is required, the operator shall comply with this Chapter within two years of that determination.

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

Section 17896.4. Permit Name

Any permit issued pursuant to this Article, except for one issued pursuant to Section 17896.12 shall be entitled: "In-vessel Digestion Facility Permit."

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

Section 17896.5. Regulatory Tier Requirements for In-Vessel Digestion Operations and Facilities.

Sections 17896.6 through 17896.13 set forth the regulatory tier requirements (Title 14, Division 7, Chapter 5. Article 3.0, commencing with Section 18100 or Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3 and 3.1 (commencing with Section 21570) of the California Code of Regulations) that apply to specified types of In-vessel Digestion Operations and Facilities. These requirements are summarized in Table 1.

Table 1: Regulatory Tier Requirements for In-Vessel Digestion Operations and Facilities

<i>Excluded Tier</i>	<i>Enforcement Agency Notification Tier</i>	<i>Registration Permit Tier</i>	<i>Full Solid Waste Facility Permit</i>
Refer to Section 17896.6	Research In-Vessel Digestion Operations. Section 17896.8	Medium Volume In-Vessel Digestion Facilities average between 15 tpd [60 yd ³ and 100 tpd, not to exceed 700 tpd (2,800 yd ³). Section 17896.12	Large Volume In-Vessel Digestion Facilities [average > 100 tpd, average > 700 tpd (2,800 yd ³)]. Section 17896.13

<i>Excluded Tier</i>	<i>Enforcement Agency Notification Tier</i>	<i>Registration Permit Tier</i>	<i>Full Solid Waste Facility Permit</i>
	Dairy In-Vessel Digestion Operations Section 17896.9		
	Distribution Center In-Vessel Digestion Operations. Section 17896.10		
	Limited Volume In-Vessel Digestion Operations [average < 15 tpd (60 yd ³ not to exceed 105 tpw (420 yd ³)] Section 17896.11		

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17896.6. Excluded Activities.

(a) The activities listed in this Section are not subject to the in-vessel digestion requirements set forth in this Chapter. Nothing in this Section precludes the EA or the Department from inspecting an excluded activity to verify that the activity is being conducted in a manner that qualifies as an excluded activity or from taking any appropriate enforcement action.

(1) A Publicly Owned Treatment Works Treatment Plant (POTW Treatment Plant), as defined in Section 403.3(r) of Title 40 of the Code of Federal Regulations, that receives vehicle-transported solid waste that is an anaerobically digestible material for the purpose of anaerobic co-digestion with POTW Treatment Plant wastewater, is excluded under the following conditions:

(A) Anaerobically digestible materials must be trucked or hauled into a POTW Treatment Plant. Once on-site, the anaerobically digestible material must be pumped or

off-loaded directly into a covered, leak-proof container and then pumped, or diluted or slurried and then pumped, and co-digested in an anaerobic digester(s) at the POTW Treatment Plant. The pumped material may be screened, otherwise separated or treated prior to anaerobic digestion, but must be processed and conveyed in a contained system. Any separated material at the POTW that is not suitable for anaerobic digestion and has no beneficial use shall be further managed as a solid waste.

(B) The POTW Treatment Plant has developed Standard Operating Procedures for the acceptance of anaerobically digestible material, the POTW Treatment Plant has notified the Regional Water Quality Control Board that those Standard Operating Procedures are being implemented, and a Standard Provision (permit condition) that reflects the acceptance of anaerobically digestible material:

has been incorporated into the POTW Treatment Plant's Waste Discharge Requirements or National Pollutant Discharge Elimination System permit; or

will be incorporated into the POTW Treatment Plant's Waste Discharge Requirements or National Pollutant Discharge Elimination System permit no later than the next permit renewal.

(C) For the purpose of this exclusion, "anaerobically digestible material" means: inedible kitchen grease as defined in Section 19216 of the Food and Agricultural Code, food material as defined in Title 14, CCR, Section 17896.2(a)(12) and vegetative food material as defined in Title 14, CCR, Section 17896.2(a)(12)(A).

(D) For the purpose of this exclusion, the Department, in consultation with the State Water Resources Control Board and the California Department of Food and Agriculture, will on a case-by-case basis, review and consider approval of additional types of organic materials as potential "anaerobically digestible material" beyond those specified in Section 17896.6(a)(1)(C) in accordance with the following:

Receipt of a written request to the Department from the General Manager or designee of a POTW Treatment Plant.

The written request must contain the following information:

The purpose of the request.

Identification of the POTW Treatment Plant proposing to anaerobically co-digest the organic waste material with the POTW wastewater.

Types of organic material requested for classification as an anaerobically digestible material.

The source(s) of the waste material.

A description of how the waste material will be handled, processed, stored and

transported (before and after receipt at the POTW Treatment Plant).

A map identifying all proposed physical changes proposed at the POTW Treatment Plant to accommodate the new waste materials.

Available laboratory test results, engineering reports, research or study to support the request.

Data and/or reports if this waste material has been used without incident at a different POTW Treatment Plant.

The name, addresses and phone numbers for the General Manager and designee of the POTW Treatment Plant.

Upon receipt of the written request, the Department will communicate and coordinate the request with and between the State Water Resources Control Board and the California Department of Food and Agriculture and will complete the following actions:

Within 10 days of receipt, send written confirmation to the General Manager and designee of the POTW Treatment Plant indicating receipt of the letter and distribute the letter to appropriate Department staff, as well as to the State Water Resources Control Board and California Department of Food and Agriculture staff contacts for review;

Within 15 days of receipt, schedule a meeting with State Water Resources Control Board and California Department of Food and Agriculture staff contacts;

Prior to the meeting, Department staff will review the letter and identify questions and/or issues with the request and make a list of recommendations;

Within 40 days of receipt, conduct a meeting on the request. If an agency representative does not attend the meeting, comments will be accepted by the Department up to close of business on the 45th day after receipt;

Within 60 days of receipt, the Department will provide a written decision to the General Manager and designee of the POTW Treatment Plant stating one of the following:

The waste type has or has not been determined to be an anaerobically digestible material excluded from both the In-Vessel Digestion Operations and Facilities Regulatory Requirements (pursuant to Section 17896.6(a)(1)(C) and the Transfer/Processing Operations and Facility Regulatory Requirements (pursuant to Section 17403.1(a)(8));

The agencies, based on the information provided, were unable to reach a determination and additional information is required before a determination can be made; or

The agencies have determined that additional research or study will need to be conducted and the results analyzed prior to a determination made by the agencies.

If additional information, research or study is necessary, the Department will consult with the General Manager or designee of the POTW, the State Water Resources Control Board and California Department of Food and Agriculture contacts, for the purpose of developing a timeline for either reviewing the additional information or for reviewing a proposed scope of work and timeline for additional research or study.

For the purpose of this exclusion, if an organic waste material is determined by the Department to be an anaerobically digestible material for the purpose of co-digestion with the POTW wastewater, the POTW Treatment Plant must comply with Section 17896.6(a)(1)(A) prior to receipt of the material at the POTW Treatment Plant.

(2) In-vessel digestion of agricultural material derived from an agricultural site and the digestate or compost produced from digestate is returned to that same agricultural site, or an agricultural site owned or leased by the owner, parent, or subsidiary of the agricultural site on which the in-vessel digester is located. No more than an incidental amount of up to 1,000 cubic yards of compost produced from digestate may be given away or sold annually. Digestate that is not composted may not be given away or sold.

(3) In-vessel digestion at a dairy involving the co-digestion of manure with agricultural material derived on-site, imported agricultural material, and/or imported vegetative food material in accordance with Waste Discharge Requirements issued by a Regional Water Quality Control Board.

(A) Any imported materials delivered to the dairy must be pumped or off-loaded directly into a covered, leak-proof container and then pumped, or diluted or slurried and then pumped, and co-digested in an in-vessel digester at a dairy. The pumped material may be screened, otherwise separated or treated prior to in-vessel digestion, but must be processed and conveyed in a contained system. Any separated material at the dairy that is not suitable for in-vessel digestion and has no beneficial use shall be further managed as a solid waste.

(B) No more than an incidental amount of up to 1,000 cubic yards of compost produced from digestate may be given away or sold annually. Digestate that is not composted may not be given away or sold.

(4) In-vessel digestion activities with less than a total of 100 cubic yards of solid waste, feedstock, and digestate on-site are excluded. [Note: Persons handling solid waste under the above exclusion are obligated to obtain all permits, licenses, or other clearances that may be required by other regulatory agencies including, but not limited to local health entities and local land use authorities.]

(5) Rendering activities, authorized by the California Department of Food and Agriculture pursuant to Section 19300 of the Food and Agricultural Code, or an activity that is a licensed animal food manufacturing activity, and in which no solid waste feedstock bypasses the rendering process.

(6) Other discrete handling activities that are already subject to more stringent handling requirements under Federal or State law, as determined by the EA in consultation with

the Department, are excluded.

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 17896.7. Prohibitions.

The following activities are prohibited at all in-vessel digestion operations and facilities and at all sites where in-vessel digestion activities that are excluded from regulation under this Chapter occur:

(a) The in-vessel digestion of unprocessed mammalian tissue, including but not limited to, flesh, organs, hide, blood, bone and marrow, except when received:

(1) from a food facility as defined in Health and Safety Code Section 113789, grocery store; or residential food scrap collection; or

(2) as part of a research activity for the purpose of obtaining data on pathogen reduction or other public health, animal health, safety, or environmental concerns in accordance with Section 17896.8; or

(3) from a source and processed by a facility approved by the Department in consultation with the State Water Resources Control Board and the California Department of Food and Agriculture, on a case-by-case basis.

(b) The in-vessel digestion of treated or untreated medical waste.

(c) The in-vessel digestion of hazardous waste.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.8. Research In-Vessel Digestion Operations

(a) An operator conducting research in-vessel digestion operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100), except as otherwise provided by this Chapter.

(b) In addition to the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0, Section 18103.1(a)(3), the operator shall provide a description of the research to be performed, research objectives, methodology/protocol to be employed, data to be gathered, analysis to be performed, how the requirements of this subchapter will be met, and the projected timeframe for completion of the research operation.

(c) After no more than a two year period of operation, the operator of a research in-vessel digestion operation shall submit to the EA a report that includes the results and conclusions drawn from the research. If the EA determines, based on the report, that

there are further research objectives to be met or data to be gathered, the EA may extend the research for a specified time period not to exceed two years. If the EA determines based on the report that there are no further research objectives to be met or data to be gathered, the operator shall conduct site restoration at the facility pursuant to Section 17896.41, or obtain other appropriate authorization pursuant to Article 1 of this Chapter prior to continuing operations.

(d) Research in-vessel digestion operations that will be using unprocessed mammalian tissue as a feedstock for the purpose of obtaining data on pathogen reduction or other public health, animal health, safety, or environmental protection concern, shall satisfy the following additional requirements:

(1) Unprocessed mammalian tissue used as feedstock shall be generated from on-site agricultural operations, and all products derived from unprocessed mammalian tissue shall be beneficially used on-site.

(2) The operator shall prepare, implement and maintain a site-specific, research in-vessel digestion operation site security plan. The research in-vessel digestion site security plan shall include a description of the methods and facilities to be employed for the purpose of limiting site access and preventing the movement of unauthorized material on to or off of the site.

(3) After no more than a six-month period of operation the operator of a research in-vessel digestion operation using unprocessed mammalian tissue as feedstock shall submit to the EA a report that includes the results and conclusions drawn from the research and documentation of additional requirements of this Section. If the EA determines based on the report that there are further research objectives to be met or data to be gathered, the EA may extend the research for a specified time period not to exceed two years. If the EA determines based on the report that there are no further research objectives to be met or data to be gathered, the operator shall conduct site restoration at the facility pursuant to Section 17896.41, or obtain other appropriate authorization pursuant to Article 1 of this Chapter prior to continuing operations.

(e) The operator shall submit all additional documentation required by subdivisions (b) and (d)(2). to the EA with the Notification and prior to the digestion of any feedstock. The EA shall determine that the EA Notification for research in-vessel digestion operations is complete and correct only if the additional documentation requirements of this Section have been met.

(f) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment but in no case shall the frequency be less than once per calendar year. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

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

Section 17896.9. Dairy In-Vessel Digestion Operations

(a) All dairy in-vessel digestion operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100).

(1) These operations shall be inspected by the EA at least once a month for the first 12 months of operation. After the first 12 months of operation the EA may approve, with Department concurrence, a reduced inspection frequency of once every three months. After the first 24 months of operation the EA may approve, with Department concurrence, a reduced inspection frequency of once per calendar year. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

(2) Any imported materials delivered to the dairy must be pumped or off-loaded directly into a covered, leak-proof container and then pumped, or diluted or slurried and then pumped, and co-digested in an in-vessel digester at a dairy. The pumped material may be screened, otherwise separated or treated prior to in-vessel digestion, but must be processed and conveyed in a contained system. Any separated material at the dairy that is not suitable for in-vessel digestion and has no beneficial use shall be further managed as a solid waste.

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

Section 17896.10. Distribution Center In-Vessel Digestion Operations.

(a) All distribution center in-vessel digestion operations shall comply with the EA Notification requirements set forth in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18100).

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA shall approve a lesser inspection frequency if it will not pose an additional risk to public health and safety and the environment but in no case shall the frequency be less than annual. The EA shall submit, for concurrence, a copy of the operator request and EA-proposed approval to the Department. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

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

Section 17896.11. Limited Volume In-Vessel Digestion Operations.

All limited volume in-vessel digestion operations shall comply with the Enforcement Agency Notification requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18100).

(1) These operations shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA shall approve a lesser inspection frequency if it will not pose an additional risk to public health and safety and the environment but in no case shall the frequency be less than annual. The EA shall submit, for concurrence, a copy of the operator request and EA-proposed approval to the Department. *[Note: See Section 18083(a)(3) for additional EA and Department requirements regarding the approval or denial of requests for reducing the frequency of inspections.]*

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

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 17896.12. Medium Volume In-Vessel Digestion Facilities

All medium volume in-vessel digestion facilities shall comply with the Registration Permit requirements set forth in Title 14, Division 7, Chapter 5.0, Article 3.0 of the California Code of Regulations (commencing with Section 18104).

(1) These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.13. Large Volume In-Vessel Digestion Facilities

All large volume in-vessel digestion facilities shall obtain a Full Solid Waste Facilities Permit, in accordance with the procedures set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3, and 3.1 of the California Code of Regulations (commencing with Section 21570). The In-vessel Digestion Report required by Section 17896.15 shall constitute the Report of Facility Information required by Section 21570(f)(2) of Title 27.

(1) These facilities shall be inspected monthly by the EA in accordance with PRC Section 43218.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.14. In-Vessel Digestion Facility Plan.

Each operator of a Medium Volume In-vessel Digestion Facility, as defined in Section 17896.2(a)(19) shall file with the EA an "In-vessel Digestion Facility Plan" (as specified

in Section 18221.5.1). The information contained in the Plan shall be reviewed by the EA to determine whether it is complete and correct as defined in Title 14, Division 7, Chapter 5.0, Article 3.0, Section 18101.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.15. In-Vessel Digestion Report.

(a) Each operator of a Large Volume In-vessel Digestion Facility, as defined in Section 17896.2(a)(15) shall file with the EA an "In-Vessel Digestion Report" (as specified in Section 18221.6.1). An operator of an existing facility who submits an application package to the EA, pursuant to Title 27, Section 21570, which proposes to change the facility's operations, or to change the solid waste facility permit shall do one of the following:

(1) submit the updated information as an amendment to the existing In-vessel Digestion Report; or

(2) submit a complete In-vessel Digestion Report as described in Section 18221.6.1.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.16. Applicability of State Minimum Standards

(a) Articles 1, 2, 3, 4, and 6. of this Chapter set forth the minimum standards that apply to all in-vessel digestion operations and facilities, except as noted in Section 17896.1.(a).

(b) Article 5 of this Chapter sets forth additional minimum standards that will apply only to in-vessel digestion facilities.

(c) Approvals, determinations and other requirements that the EA is authorized to make under Articles 1, 3, 4, 5, and 6 of this Chapter shall be provided in writing by the EA to the operator. The operator shall place a copy of each approval, determination and other requirement in the operating record together with those records identified in Sections 17896.45 and 17896.46.

(d) Some of the standards contained in this Chapter authorize the EA to approve an alternative method of compliance with the standard. These provisions are not intended to allow the EA to change the particular standard, but are intended to allow the EA flexibility to approve, in advance, an alternative method of meeting the existing standard which provides equivalent protection of the public health and safety and the environment as the existing standard. For facilities that require a full solid waste facility permit, the EA may choose to include the approved alternative method of compliance as a term and condition of the solid waste facility permit, rather than in the manner authorized by subdivision (c) of this Section. If the method is included in the solid waste

facility permit, a change to the method may require a revision to the solid waste facility permit in accordance with the procedures set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2, 3, and 3.1 (commencing with Section 21570).

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Article 2. Siting and Design

Section 17896.17. Siting on Landfills.

(a) In-vessel digestion operations and facilities or portions thereof, located atop fully or partially closed solid waste landfills shall meet postclosure land use requirements pursuant to Title 27, California Code of Regulations, Section 21190.

(b) In-vessel digestion operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall locate operations areas on foundation substrate that is stabilized, either by natural or mechanical compaction, to minimize differential settlement, ponding, soil liquefaction, or failure of pads or structural foundations.

(c) In-vessel digestion operations and facilities or portions thereof, located on intermediate cover on a solid waste landfill shall be operated in a manner not to interfere with the operations of the landfill or with the closure or postclosure maintenance of the landfill.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.18. General Design Requirements.

(a) The design of a new in-vessel digestion operation or facility shall utilize expert advice, as appropriate, from persons competent in engineering, architecture, landscape design, traffic engineering, air quality control, water quality protection and design of structures.

(b) The design shall be based on appropriate data regarding the expected service area, anticipated nature and quantity of wastes to be received, climatological factors, physical settings, adjacent land use (existing and planned), types and number of vehicles anticipated to enter the operation or facility, adequate off-street parking facilities for transfer vehicles, drainage control, the hours of operation and other pertinent information. If the operation or facility is to be used by the general public, the design shall take account of safety features that may be needed to accommodate such public use.

(c) The in-vessel digestion operation or facility shall be designed in such a manner as to restrict the unloading area to as small an area as practicable, provide adequate control of windblown material, minimize the propagation or attraction of flies, rodents or other

vectors and the creation of nuisances by reason of solid wastes being handled at the operation. Other factors which shall be taken into consideration are: dust control, noise control, public safety, and other pertinent matters related to the protection of public health at the operation or facility.

(d) In reviewing the design of a proposed in-vessel anaerobic digestion operation or facility, the EA may require the applicant to describe how he or she has complied with applicable local and state requirements regarding odor control measures, personnel health and safety, and sanitary facilities.

(e) Solid waste storage containers shall be durable, easily cleanable, designed for safe handling, and constructed to prevent loss of wastes from the container during storage. If such a container is used to store garbage, other wet or liquid producing wastes, or wastes composed of fine particles, such container shall in all cases be nonabsorbent and leak-resistant. Unloading areas shall be easily cleanable, designed for safe handling and constructed to prevent loss of wastes.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Article 3. Operating Standards for In-Vessel Digestion Operations and Facilities

Section 17896.19. Biogas Control.

The operator of an in-vessel digestion operation or facility must take adequate measures to prevent the uncontrolled release of biogas that may have harmful effects to on-site users and the general public.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.20. Cleaning.

(a) In-vessel digestion operations, facilities, and their equipment, boxes, bins, pits and other types of containers shall be cleaned using the following schedule, or at a lesser frequency, approved by the EA, in order to prevent the propagation or attraction of flies, rodents, or other vectors:

(1) all operations and facilities shall be cleaned each operating day of all loose materials and litter;

(2) all operations or facilities that operate 24 hours per day must clean the operations or facilities at least once every 24 hours.

(b) The entrance and exit shall be cleaned at a frequency which prevents the tracking or off-site migration of waste materials.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.21. Drainage and Spill Control.

(a) Drainage at all in-vessel digestion operations and facilities shall be controlled to:

(1) minimize the creation of contact water outside of in-vessel digesters and sealed containers;

(2) prevent to the greatest extent possible given existing weather conditions, the uncontrolled off-site migration of contact water;

(3) protect the integrity of roads and structures;

(4) protect the public health; and

(5) prevent safety hazards and interference with operations.

(b) The operator shall take measures to prevent spillage and promptly respond to any leaks or spills that occur.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.22. Dust Control.

(a) The operator shall take adequate measures to minimize the creation, emission, or accumulation of excessive dust and particulates, and prevent other safety hazards to the public caused by obscured visibility. The operator shall minimize the unnecessary handling of wastes during processing to prevent the creation of excessive dust. Measures to control dust include, but are not limited to: reduced processing, periodic sweeping and cleaning, misting systems or ventilation control. One or more of the following may be an indication that dust is excessive:

(1) safety hazards due to obscured visibility; or

(2) irritation of the eyes; or

(3) hampered breathing;

(4) migration of dust off-site.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.23. Hazardous, Liquid, and Special Wastes.

(a) An in-vessel digestion operation or facility shall not intentionally accept or store hazardous wastes, including batteries, oil, paint, and special wastes, unless it has been

approved to handle the particular waste by the appropriate regulatory agencies. Such approvals shall be placed in the operating record.

(b) At in-vessel digestion operations and facilities where unauthorized hazardous wastes are discovered, control measures as are necessary to protect public health, safety and the environment, such as elimination or control of dusts, fumes, mists, vapors or gases shall be taken prior to isolation or removal from the operation or facility.

(c) In-vessel digestion operations and facilities shall be properly equipped to handle liquid wastes and sludge wastes in a manner to protect public health, safety, and the environment.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.24. Litter Control.

Litter at in-vessel digestion operations and facilities shall be controlled, and routinely collected to prevent safety hazards, nuisances or similar problems and off-site migration to the greatest extent possible given existing weather conditions.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.25. Load Checking.

(a) The operator of an attended in-vessel digestion operation or facility shall implement a load checking program to prevent the acceptance of waste which is prohibited by this Chapter. This program must include at a minimum:

(1) the number of random load checks to be performed;

(2) a location for the storage of prohibited wastes removed during the load checking process that is separately secured or isolated;

(3) records of load checks and the training of personnel in the recognition, proper handling, and disposition of prohibited waste. A copy of the load checking program and copies of the load checking records for the last year shall be maintained in the operating record and be available for review by the appropriate regulatory agencies.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.26. Maintenance Program.

All aspects of the in-vessel digestion operation or facility shall be maintained in a state of good repair. The operator shall implement a preventative maintenance program to monitor and promptly repair or correct deteriorated or defective conditions.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.27. Medical Wastes.

Medical waste, whether treated or untreated, shall not be accepted at an in-vessel digestion operation or facility, unless approved by the appropriate regulatory agencies.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.28. Noise Control.

Noise shall be controlled to prevent health hazards and to prevent nuisance. Measures to control noise include but are not limited to: posting of warning signs that recommend or require hearing protection; separation by barriers that limit access to authorized personnel only; or, enclosures to reduce noise transmission. Compliance with specific provisions regarding noise control in a local land use approval, such as a conditional use permit or CEQA mitigation measures, shall be considered compliance with this standard.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code, and Title 40, Chapter I, Subchapter O, Part 503, of the Code of Federal Regulations.*

Section 17896.29. Non-Salvageable Items

Drugs, cosmetics, foods, beverages, hazardous wastes, poisons, medical wastes, syringes, needles, pesticides and other materials capable of causing public health or safety problems shall not be salvaged at in-vessel digestion operations or facilities unless approved by all applicable agencies and the EA.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 17896.30. Odor Best Management Practice Feasibility Report.

(a) The operator may voluntarily prepare an Odor Best Management Practice Feasibility Report (Report) or the EA may require the operator to prepare a Report after consecutive or chronic odor violations as determined pursuant to Section 17896.31(f).

(b) The Report shall:

(1) Present representative and correlating odor data for each potential onsite odor source including but not limited to: odor severity, odor characteristics, time and weather conditions when data was collected, description of operations associated with the source, and any odor impacts or complaints received;

(2) Identify, based on data required in subdivision (b)(1), which onsite odor sources are

and are not contributing to odor impacts and rank those contributing to the odor impacts (complaints/violations) in order of impact;

(3) For odor sources contributing to odor impacts, as identified above in subdivision (b)(2):

(A) List of all best management practices (BMPs), using the Comprehensive Compost Odor Response Project (CCORP) or other industry-accepted practice(s) as a guideline, which the operator has used to minimize odor and analyze each BMP for the following:

The effectiveness of the BMP in reducing odor impacts;

The potential for more extensive use of the BMP to minimize odor impacts described by complainants;

If the BMP has been operationally practical and if more extensive use of the BMP would be operationally practical;

The approximate cost to implement a more extensive use of the BMP;

Any permits or permit changes necessary to use the BMP more extensively;

Overall recommendation if existing BMPs should be continued and if more extensive use of the BMP is recommended; and

If the BMP has been found to be ineffective (include supporting data).

(B) List of all potential best management practices (BMPs), using the Comprehensive Compost Odor Response Project (CCORP) or other industry-accepted practice(s) as a guideline, which the operator has not used and analyze each potential BMP to determine:

The potential for the BMP to reduce odor impacts described by complainants;

If the BMP is operationally practical;

The approximate cost to implement the BMP;

Any permits or permit changes necessary to use the BMP; and

Overall recommendation and ranking of implementing the BMP.

(C) Develop a plan and schedule for implementing the BMP(s) that are recommended, based on the analysis conducted pursuant to subdivision (b)(3)(A) and (B).

(c) The operator shall submit the Report required by subdivisions (a) and (b), and the plan and schedule required by subdivision (b)(3)(C) to the EA and the Department for review. If the EA has required the operator to prepare a Report pursuant to subdivision (a), the operator shall submit the plan and schedule within 14 days or other timeframe

approved by the EA.

(d) The EA, in consultation with the Department, shall within 30 days:

(1) approve the Report and associated plan and direct the operator in writing to implement the plan in whole or in part; and/or

(2) direct the operator in writing to submit specific changes or additional information within a timeframe specified by the EA.

(e) The EA may issue a Notice and Order pursuant to Section 17863.4(f) to carry out subdivision (d)(1) or (d)(2).

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

Reference: *Sections 43020, 43021 and 43209.1, Public Resources Code.*

Section 17896.31. Odor Minimization Plan.

(a) All in-vessel digestion operations and facilities shall prepare, implement and maintain a site-specific odor impact minimization plan. A complete plan shall be submitted to the EA with the EA Notification or permit application.

(b) Odor impact minimization plans shall provide guidance to on-site operation personnel by describing, at a minimum, the following items. If the operator will not be implementing any of these procedures, the plan shall explain why it is not necessary.

(1) an odor monitoring and data collection protocol for on-site odor sources, which describes the proximity of possible odor receptors and a method for assessing odor impacts at the locations of the possible odor receptors; and,

(2) a description of meteorological conditions effecting migration of odors and/or transport of odor-causing material off-site. Seasonal variations that effect wind velocity and direction shall also be described; and,

(3) a complaint response and recordkeeping protocol; and,

(4) a description of design considerations and/or projected ranges of optimal operation to be employed in minimizing odor, including method and degree of aeration, moisture content of materials, feedstock characteristics, airborne emission production, process water distribution, pad and site drainage and permeability, equipment reliability, personnel training, weather event impacts, utility service interruptions, and site specific concerns as applicable; and,

(5) a description of operating procedures for minimizing odor, including aeration, moisture management, feedstock quality, drainage controls, pad maintenance, wastewater pond controls, storage practices (e.g., storage time and pile geometry), contingency plans (i.e., equipment, water, power, and personnel), bio filtration, and tarping as applicable.

(c) The odor impact minimization plan shall be revised to reflect any changes, and a copy shall be provided to the EA, within 30 days of those changes.

(d) The odor impact minimization plans shall be reviewed annually by the operator to determine if any revisions are necessary.

(e) The odor impact minimization plan shall be used by the EA to determine whether or not the operation or facility is following the procedures established by the operator. If the EA determines that the odor impact minimization plan is not being followed, the EA may issue a Notice and Order (pursuant to Section 18304) to require the operator to either comply with the odor impact minimization plan or to revise it.

(f) If the odor impact minimization plan is being followed and the EA determines, in a manner consistent with Section 18302(d), that odor impacts are still occurring, the EA shall direct the operator to prepare and implement an Odor Best Management Practice Feasibility Report (Report) as specified in Section 17896.30. The EA shall consider the results of the Report prior to issuing a Notice and Order (pursuant to Section 18304) requiring the operator to take additional reasonable and feasible measures to minimize odors unless:

(1) the EA has evidence that a specific and immediate action would reduce the odor impacts;

(2) there is an imminent threat to public health and safety and the environment; or

(3) a nuisance has occurred.

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

Reference: *Sections 43020, 43021 and 43209.1, Public Resources Code.*

Section 17896.32. Odor and Nuisance Control.

Each in-vessel digestion operation and facility shall be conducted and maintained:

(a) in a manner that minimizes odor impacts so as to not cause a nuisance, and

(b) to otherwise prevent the creation of a nuisance.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.33. Parking.

Adequate off-street parking area(s) shall be provided, if necessary, for transfer vehicles. Compliance with specific provisions regarding adequacy of off-street parking in a local land use approval, such as a conditional use permit or CEQA mitigation measures, shall be considered compliance with this standard.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.34. Personnel Health and Safety.

The Injury, Illness, and Prevention Program (IIPP) required by Title 8, California Code of Regulations, Section 3203, shall be available for review by local and state inspectors during normal business hours. Nothing in this Section is intended to make the EA responsible for enforcing the IIPP.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.35. Pre-Digestion Solid Waste Handling

(a) Putrescible wastes shall be injected into the in-vessel digester or stored in a sealed container or sealed structure or removed from the site within 48 hours from the time of receipt. This requirement does not apply to putrescible waste stored in a sealed bag, bottle, or can.

(b) All non-putrescible wastes not intended for digestion shall be removed within 7 days from the date of receipt or at an alternate frequency approved by the EA.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.36. Protection of Users.

An in-vessel digestion operation or facility shall be designed, constructed, operated, and maintained so that contact between the public and solid wastes is minimized. This may be accomplished through the use of railings, curbs, grates, fences, and/or spotters.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.37. Roads.

All on-site roads and driveways shall be designed and maintained to minimize the generation of dust and tracking of soil onto adjacent public roads. Such roads shall be kept in safe condition and maintained to allow vehicles utilizing the in-vessel digestion operation or facility to have reasonable all-weather access to the site.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.38. Sanitary Facilities.

The operator shall maintain all sanitary and hand-washing facilities in a reasonably clean and adequately supplied condition.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.39. Scavenging and Salvaging.

Each in-vessel digestion operation or facility shall meet the following requirements:

(a) scavenging shall be prohibited;

(b) salvaging of materials, such as metal, paper, glass and cardboard is permitted as an integral part of the operation, subject to conditions established by the EA, the local land use authority, or other approving agencies.

(c) salvaging activities shall be conducted in a planned and controlled manner and not interfere with other aspects of site operation. Activities shall be conducted so as not to interfere with expeditious entry and exit of vehicles delivering waste to the in-vessel digestion operation or facility. Salvaging activities conducted at an in-vessel digestion operation or facility shall be confined to specified, clearly identified areas of the in-vessel digestion operation or facility, and controlled to prevent health, safety or nuisance problems;

(d) storage of materials salvaged from solid wastes shall be ancillary to the activities of the operation or facility unless such storage is planned as an integral part of the operation. Materials salvaged on-site shall be stored away from other activity areas in specified, clearly identifiable areas as noted in the In-vessel Digestion Facility Plan or In-vessel Digestion Report. They shall be arranged to minimize risk of fire, health and safety hazard, vector harborage, or other hazard or nuisance, and limited to a specified volume and/or duration as described in the Enforcement Agency Notification, In-vessel Digestion Facility Plan, or In-vessel Digestion Facility Report.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.40. Signs.

(a) For in-vessel digestion operations or facilities not open to the public, each point of access from a public road shall be posted with an easily visible sign indicating the in-vessel digestion operation or facility name and location of nearest public operation or facility.

(b) If the operation or facility is open to the public, there shall be an easily visible sign at all public entrances indicating the name of the operator, the operator's telephone number, schedule of charges, hours of operation, and a listing of the general types of materials which either (1) WILL be accepted, or (2) WILL NOT be accepted.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.41. Site Restoration.

All in-vessel digestion operations and facilities shall meet the following requirements:

(a) The operator shall provide the EA written notice of intent to perform site restoration, at least 30 days prior to beginning site restoration.

(b) The operator(s) and owner(s) shall provide site restoration necessary to protect public health, safety, and the environment.

(c) The operator shall ensure that the following site restoration procedures are performed upon completion of operations and termination of service:

(1) The operation and facility grounds, ponds, and drainage areas shall be cleaned of all residues including, but not limited to, digestate, compost materials, construction scraps, and other materials related to the operations, and these residues legally recycled, reused, or disposed.

(2) All machinery shall be cleaned and removed or stored securely.

(3) All remaining structures shall be cleaned of digestate, compost materials, dust, particulates, or other residues related to the site restoration operations.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.42. Supervision and Personnel.

The operator shall provide adequate supervision and a sufficient number of qualified personnel to ensure proper operation of the site in compliance with all applicable laws, regulations, permit conditions and other requirements. The operator shall notify the EA in writing of the name, address and telephone number of the operator or other person responsible for the operation. A copy of the written notification shall be placed in the operating record.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.43. Training.

Personnel assigned to the operation or facility shall be adequately trained in subjects pertinent to site solid waste operations and maintenance, hazardous materials recognition and screening, use of mechanized equipment, environmental controls, emergency procedures and the requirements of this Article. A record of such training history shall be maintained and made available for inspection.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.44. Vector, Bird and Animal Control.

The operator shall take adequate steps to control or prevent the propagation, harborage and attraction of flies, rodents, or other vectors, and animals, and to minimize bird attraction.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.44.1. Measuring Organic Waste in Material Sent to Disposal.

(a) The operator shall determine the quarterly percentage of organic waste contained in materials sent to landfill disposal.

(1) To determine the percentage, the operator shall, measure the amount of organic waste by weight present in the materials sent to landfill disposal.

(A) The measurements required pursuant to this section shall be conducted at the following frequency:

1. For each reporting period, the operator shall perform the sampling protocol required in Subdivision (a)(2) over at least ten (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 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 part of the reporting period and are not required to be a continuation of the original 10 operating days.

(2) The operator shall comply with Subdivision (a)(1) by using the following protocol:

(A) Take one sample of at least two hundred (200) pounds of the materials that the operation or facility is sending to landfill disposal on that operating day. Each sample shall be:

1. Representative of a typical operating day; and

2. A random, composite sample taken either from various times during the operating day or from various locations within the pile(s) of material that will be sent to disposal.

(B) Record the 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 the organic waste in the sample.

(D) Then determine the ratio of organic waste present in the materials removed for landfill disposal by dividing the total from Subdivision (a)(2)(C) by the total from Subdivision (a)(2)(B).

(E) Determine the total weight of organic waste that is sent for landfill disposal by multiplying the ratio determined pursuant to Subdivision (a)(2)(D) by the total weight of the materials removed for landfill disposal from the source separated organic waste collection stream after processing.

(F) Determine the sum of outgoing weights of organic waste present in material that is sent to landfill disposal as determined pursuant to Subdivision (a)(2)(E).

(G) Determine the ratio of organic waste present in the material sent to landfill disposal by dividing the total from Subdivision (a)(2)(F) by the total monthly outgoing weights of residuals removed that is sent for landfill disposal.

(H) Determine the percentage of organic waste present in the material sent to landfill disposal by multiplying the monthly ratio as determined pursuant to Subdivision (a)(2)(G) by 100.

(b) The operator shall conduct a measurement in the presence of the EA when requested.

(c) 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.

(d) An alternative measurement protocol for determining the amount of organic waste contained in the residual may be approved by the EA, with concurrence by the Department. For the purposes of this section, alternative measurement protocols may include, but are not limited to, measurements made with a different sampling frequency and/or weight than those specified in this article. The Department shall concur with EA approval if it finds that the alternative measurement protocol will ensure that the measurements will be as accurate as those described in Subsection (a)(1) and (2), above.

(e) Organic waste that are 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.

(f) Organic waste sent to an activity listed in Section 18983.1(a) shall constitute landfill disposal.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Article 4. Record Keeping Requirements.

Section 17896.45. Record Keeping Requirements.

Each operator shall meet the following requirements:

(a) Each operator shall maintain records listed in this subdivision in a form and manner approved by the EA. Such records shall be adequate for overall planning and control purposes; and, be as current and accurate as practicable.

(1) The quarterly percentage of organic waste contained in material sent to landfill disposal as calculated pursuant to Section 17896.44.1.

(2) The outgoing weights or volumes of material sent to disposal.

(3) Daily outgoing weights or volumes of organic waste recovered and produced.

(4) Daily outgoing weights or volumes of salvaged materials.

(5) Daily incoming weights of material.

(6) The weight of compostable material sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation.

(b) All records required by this Chapter shall be kept by the operator in one location and accessible for five (5) years and shall be available for inspection by the EA and other duly authorized regulatory agencies during normal working hours.

(c) The operator shall submit copies of specified records to the EA upon request or at a frequency approved by the EA;

(d) The operator shall maintain a daily log book or file of special occurrences encountered during operations and methods used to resolve problems arising from these events, including details of all incidents that required implementing emergency procedures. Special occurrences shall include but are not limited to: fires, injury and property damage, accidents, explosions, receipt or rejection of prohibited wastes, lack of sufficient number of personnel pursuant to section 17896.42, flooding, earthquake damage and other unusual occurrences. In addition, the operator shall notify the EA by telephone within 24 hours of all incidents requiring the implementation of emergency procedures, unless the EA determines that a less immediate form of notification will be sufficient to protect public health and safety and the environment;

(e) The operator shall record any written public complaints received by the operator, including:

(1) the nature of the complaint,

- (2) the date the complaint was received,
- (3) if available, the name, address, and telephone number of the person or persons making the complaint, and
- (4) any actions taken to respond to the complaint;
- (f) The operator shall maintain a copy of the written notification to the EA and local health agency of the name, address and telephone number of the operator or other person(s) responsible for the operations as required by section 17896.42;
- (g) The operator shall maintain records of employee training as required by section 17896.43;
- (h) all in-vessel digestion operations and facilities shall maintain records as required by section 18809 et seq.
- (i) The operator shall record all test results generated by compliance with Article 6 of this Chapter, including but not limited to, metal concentrations, physical contamination limits, fecal coliform and Salmonella sp. densities, temperature measurements, and dates of windrow turnings.
- (1) The operator shall retain records detailing pathogen reduction methods.
- (j) Each operator shall maintain records in accordance with Title 14, California Code of Regulations, Division 7, Chapter 9, Article 9.25, Section 18815 et. seq. The records shall be available for inspections as authorized by that article during normal business hours and retained in the operating record near the site or in an alternative location approved by the Local Enforcement Agency.
- (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 Sections 17896.44.1. The EA shall conduct such verification through:
 - (1) The review of records required by this section; and
 - (2) The periodic, direct observation of measurements at a frequency necessary to ensure that the operator is performing such measurements in a manner consistent with this section.
- (l) If, at any time, the EA determines that the records required by this section indicate that compostable material is sent offsite to any destination(s) other than an authorized permitted solid waste facility or operation, the EA shall directly observe any compostable material onsite designated for such offsite destination(s). 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.

Note:

Authority cited: Sections 40502, 43020 and 43021, Public Resources Code.
Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Article 5. Additional Operating Requirements For in Vessel Digestion Facilities Only

Section 17896.47. Communications Equipment.

Each in-vessel digestion facility shall have adequate communication equipment available to site personnel to allow quick response to emergencies.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.48. Equipment.

Equipment shall be adequate in type, capacity and number, and sufficiently maintained to allow the in-vessel digestion facility to meet all requirements of this Chapter.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Sections 17896.49. Fire Fighting Equipment.

Each in-vessel digestion facility shall have fire suppression equipment continuously available, properly maintained and located as required by the local fire authority.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.50. Housekeeping.

The operator shall provide adequate housekeeping for the maintenance of in-vessel digestion facility equipment and shall minimize accumulations of fuel drums, inoperable equipment, parts, tires, scrap, and similar items.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.51. Lighting.

The in-vessel digestion facility and/or equipment shall be equipped with adequate lighting, either through natural or artificial means, to ensure the ability to monitor incoming loads, effectiveness of operations, and public health, safety and the environment.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.52. Site Attendant.

An in-vessel digestion facility open to the public shall have an attendant present during public operating hours or the facility shall be inspected by the operator on a regularly scheduled basis as approved by the EA to ensure that it meets all of the requirements of this Chapter.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.53. Site Security.

The in-vessel digestion facility shall be designed to discourage unauthorized access by persons and vehicles through the use of either a perimeter barrier or topographic constraints.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.54 Traffic Control.

(a) Traffic flow through the in-vessel digestion facility shall be controlled to prevent the following:

(1) interference with or creation of a safety hazard on adjacent public streets or roads,

(2) on-site safety hazards, and

(3) interference with operations.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.55. Visual Screening.

The in-vessel digestion facility shall have appropriate treatment of areas open to public view to create and maintain an aesthetically acceptable appearance as approved by the local land use authority, or if none exist, in consultation with the EA. Compliance with specific provisions regarding visual screening in a local land use approval, such as a conditional use permit, or CEQA mitigation measures shall be considered compliance with this standard.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Section 17896.56. Water Supply.

A safe and adequate water supply for conducting in-vessel digestion, drinking and emergency use (e.g., fire protection, first aid) shall be available.

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

Reference: *Sections 40053, 43020, and 43201, Public Resources Code.*

Article 6. Digestate Handling Standards

Section 17896.57. Digestate Handling.

(a) Digestate not contained in an in-vessel digester shall, within 24 hours, be:

(1) stored or processed on-site in a sealed container or sealed structure unless the EA approves an alternative handling method after determining the alternative method will not pose an additional risk to public health and safety or the environment; or

(2) incorporated in an on-site aerobic compost process.

(A) On-site aerobic composting of digestate is allowable only at large volume in-vessel digestion facilities that have obtained an In-vessel Digestion Facility Permit pursuant to section 17896.13.

(B) All in-vessel digestion facilities that compost on-site shall comply with the sampling requirements of section 17896.58, maximum metal concentrations requirements of section 17896.59, the maximum acceptable pathogen concentrations requirements of section 17896.60(b)(1), and physical contamination limits of section 17896.61; or

(3) removed from the site and one of the following:

(A) transported only to another solid waste facility or operation for additional processing, composting, or disposal;

1. Digestate that is transported to another solid waste facility or operation for additional processing or composting shall only be transported to one of the following facilities:

i. A transfer/processing facility or operation that complies with Section 17409.5.8(a); or

ii. A compostable material handling facility or operation that, pursuant to Section 17867(a)(16), demonstrates that the percentage of organic waste in the materials sent to disposal is:

I. On and after January 1, 2022, less than 20 percent.

II. On and after January 1, 2024, less than 10 percent.

(B) used in a manner approved by local, state, and federal agencies having appropriate jurisdiction. Any digestate that will be land applied must meet the requirements of Section 17852(a)(24.5);

(C) disposed in a manner as set forth in the Consolidated Regulations for Treatment, Storage, Processing or Disposal of Solid Waste (commencing at Title 27, California Code of Regulations, section 20005).

(b) Digestate that has not been analyzed for metal concentration pursuant to section 17896.59, pathogen concentration pursuant to section 17896.60(b)(1), and physical contaminants pursuant to section 17896.61 or is known to contain any metal in amounts that exceed the maximum metal concentrations described in section 17896.59, pathogens that exceed the maximum acceptable pathogen concentrations described in section 17896.60(b)(1), or physical contaminants that exceed the maximum physical contamination limits described in section 17896.61 shall be designated for disposal, additional processing, or other use as approved by local, state agencies having appropriate jurisdiction.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code, and Section 39730.6, Health and Safety Code.

Section 17896.58. Sampling Requirements.

(a) Operators shall verify that compost produced at an in-vessel digestion facility (pursuant to Section 17896.57(a)(2)) meets the maximum metal concentrations limits specified in Section 17896.59, and the pathogen reduction requirements specified in Section 17896.60. This verification shall be performed by taking and analyzing a composite sample. The sampling of compost produced at an in-vessel digestion facility shall occur prior to the point where the compost is removed from the site or beneficially used on site. Test results of samples must be received by the operator prior to removing compost from the in-vessel digestion facility where it was produced.

(b) Sampling shall be performed by taking and analyzing at least one composite sample, following the requirements of this Section as follows:

(1) An operator shall take and analyze one composite sample for every 5,000 cubic-yards of compost produced. If the in-vessel digestion facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample every 12 month period.

(2) Composite sample analysis for maximum acceptable metal concentrations, specified in Section 17896.59, shall be conducted at a laboratory certified by the California Department of Public Health, pursuant to the Health and Safety Code.

(c) A composite sample shall be representative and random, and may be obtained by taking twelve (12) mixed samples as described below.

- (1) The twelve samples shall be of equal volume.
- (2) The twelve samples shall be extracted from within the post-digested solids or compost pile as follows:
 - (A) Four samples from one-half the width of the pile, each at a different cross-Section;
 - (B) Four samples from one-fourth the width of the pile, each at a different cross-Section; and,
 - (C) Four samples from one-eighth the width of the pile, each at a different cross-Section.
- (d) The EA may approve alternative methods of sampling that ensures the maximum metal concentration requirements of Section 17896.59, and the pathogen reduction requirements of Section 17896.60, as applicable, are met.

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

Reference: *Sections 43020 and 43201, Public Resources Code.*

Section 17896.59. Maximum Metal Concentrations.

(a) Compost produced at an in-vessel digestion facility (pursuant to Section 17896.57(a)(2)) shall not exceed the maximum acceptable metal concentrations shown in Table 2. Compost that contains any metal in amounts that exceed the maximum acceptable metal concentrations shown in Table 2 shall be designated for additional processing, disposal, or other use as approved by local, state and federal agencies having appropriate jurisdiction. Test results of samples must be received by the operator prior to removing compost from the in-vessel digestion facility where it was produced.

Table 2: Maximum Acceptable Metal Concentrations

Constituent	Concentration (mg/kg) on dry weight basis
Arsenic (As)	41
Cadmium (Cd)	39
Chromium (Cr)	(see subdivision(a)(1) below)
Copper (Cu)	1500
Lead (Pb)	300
Mercury (Hg)	17
Nickel (Ni)	420
Selenium (Se)	100
Zinc (Zn)	2800

(1) Although there is no maximum acceptable metal concentration for chromium in compost, operators subject to subdivision (a) shall arrange for concentrations of chromium in compost they produce to be determined in connection with the analysis of other metals. Operators shall maintain records of all chromium concentrations together with their records of other metal concentrations.

(b) Alternative methods of compliance to meet the requirements of this Section may be approved by the EA if the EA determines that the alternative method will ensure that the maximum acceptable metal concentrations shown in Table 2 are not exceeded.

Section 17896.60. Pathogen Reduction.

(a) Compost produced at an in-vessel digestion facility (pursuant to Section 17896.57(a)(2)) shall not exceed the maximum acceptable pathogen concentrations described in subdivision (b)(1) of this Section. Compost that contains any pathogens in amounts that exceed these pathogen reduction requirements shall be designated for additional processing, disposal, or other use as approved by local, state and federal agencies having appropriate jurisdiction. Test results of samples must be received by the operator prior to removing compost from the in-vessel digestion facility where it was produced.

(b) Operators of in-vessel digestion facilities that produce compost shall ensure that:

(1) The density of fecal coliform in compost produced at an in-vessel digestion facility shall be less than 1,000 Most Probable Number per gram of total solids (dry weight basis), and the density of Salmonella sp. bacteria in this compost shall be less than three (3) Most Probable Number per four (4) grams of total solids (dry weight basis). Test results of samples must be received by the operator prior to removing product from the site.

(2) At in-vessel digestion facilities using an enclosed or within-vessel composting process, active compost shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days.

(A) Due to variations among enclosed and within-vessel composting system designs, including tunnels, the operator shall submit a system-specific temperature monitoring plan with the permit application to meet the requirements of subdivision (b)(2) of this Section.

(3) If the facility uses a windrow composting process, active compost shall be maintained under aerobic conditions at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 15 days or longer. During the period when the compost is maintained at 55 degrees Celsius or higher, there shall be a minimum of five (5) turnings of the windrow.

(4) If the facility uses an aerated static pile composting process, all active compost shall be covered with 6 to 12 inches of insulating material, and the active compost shall be maintained at a temperature of 55 degrees Celsius (131 degrees Fahrenheit) or higher for a pathogen reduction period of 3 days.

(c) In-vessel digestion facilities that produce compost utilizing a windrow composting process or an aerated static pile composting process shall be monitored as follows to ensure that the standards in subdivision (b) of this Section are met:

(1) Each day during the pathogen reduction period, at least one temperature reading shall be taken per every 150 feet of windrow, or fraction thereof, or for every 200 cubic-yards of active compost, or fraction thereof.

(2) Temperature measurements for pathogen reduction shall be measured as follows:

(A) Windrow composting processes and agitated bays shall be monitored twelve (12) to twenty-four (24) inches below the pile surface;

(B) Aerated static pile composting processes shall be monitored twelve (12) to eighteen (18) inches from the point where the insulation cover meets the active compost.

(d) Alternative methods of compliance to meet the requirements of this Section may be approved by the EA if the EA determines that the alternative method will provide equivalent pathogen reduction.

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

Reference: *Sections 43020 and 43201, Public Resources Code.*

Section 17896.61. Physical Contamination Limits.

This Section shall become operative January 1, 2018.

(a) Compost produced at an in-vessel digestion facility (pursuant to Section 17896.57(a)(2)) shall not contain more than 0.5% by dry weight of physical contaminants greater than 4 millimeters; no more than 20% by dry weight of this 0.5% shall be film plastic greater than 4 millimeters. Compost that contains physical contaminants in excess of either one or both of these limits shall be designated for additional processing, disposal, or other use as approved by local, state and federal agencies having appropriate jurisdiction. Verification of physical contamination limits shall occur prior to the point where compost is removed from the site or beneficially used on-site. Test results of samples must be received by the operator prior to removing compost from the in-vessel digestion facility where it was produced.

(b) The operator of an in-vessel digestion facility with an on-site aerobic compost process shall sample every 5,000 cubic-yards of compost produced and determine the percentage of physical contaminants greater than 4 millimeters in the sample using a method that provides accurate results and has been approved by the EA. If the in-vessel digestion facility produces less than 5,000 cubic-yards of compost in a 12 month period, the operator shall analyze at least one composite sample of compost produced every 12 month period.

(c) If the EA has reason to believe, based on the EA's visual observation or otherwise, that a determination of percent physical contaminants made pursuant to Section 17896.61(b) is not accurate, the EA may require an operator of an in-vessel digestion facility to take a composite sample of compost in the presence of the EA and send the sample to a laboratory at which physical contaminants greater than 4 millimeters shall be collected and weighed to determine the percentage of physical contaminants by dry weight using the following protocol:

(1) Determine the total dry weight of the composite sample as obtained in Section 17896.61(d);

(2) Separate the physical contaminants greater than 4 millimeters from the composite sample and determine the dry weight of the physical contaminants;

(3) Determine the percentage of physical contaminants by dividing the dry weight of the physical contaminants by the total dry weight of the composite sample.

(d) Any sampling conducted to comply with this Section shall require a composite sample. A composite sample shall be representative and random, and may be obtained by taking twelve

(12) mixed samples as described below.

- (1) The twelve samples shall be of equal volume.
- (2) The twelve samples shall be extracted from within the compost pile as follows:
 - (A) Four samples from one-half the width of the pile, each at a different cross-Section;
 - (B) Four samples from one-fourth the width of the pile, each at a different cross-Section;
and,
 - (C) Four samples from one-eighth the width of the pile, each at a different cross-Section.
- (e) Alternative methods of compliance to meet the requirements of this Section may be approved by the EA if the EA determines that the alternative method will ensure the physical contaminant requirements of this Section are met.

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

Reference: *Sections 43020 and 43201, Public Resources Code.*

Chapter 3.5. Standards for Handling and Disposal of Asbestos Containing Waste

SubChapter Ghost Header for Outline ADA Compliance

Article 1. General

Section 17897. Purpose, Scope and Applicability.

(a) The purpose of this chapter is to establish minimum standards that define the acceptable management of asbestos containing waste. The standards of this chapter apply only to the owner or operator of a solid waste facility who disposes of asbestos containing waste, pursuant to Health and Safety Code Section 25143.7.

(b) Nothing in these Articles shall be construed as relieving any owner, operator, or designee from the obligation of obtaining all required permits, licenses, or other clearances and complying with all orders, laws, regulations, or reports, or other requirements of other regulatory or enforcement agencies, including but not limited to, local health agencies, regional water quality control boards, air quality management districts or air pollution control districts, local land use authorities, and fire authorities.

Authority cited: Section 44820, Public Resources Code.

Reference: Section 25143.7, Health and Safety Code.

Section 17897.10. Definitions.

The following definitions are to used only for the purposes of this Chapter.

“Adequately wet” means waste that is sufficiently mixed or penetrated with liquid to prevent the release of finely divided pArticles. Spraying water over the surface of asbestos containing waste does not satisfy “adequately wet” requirement.

“Asbestos Containing Waste” or “ACW” means asbestos containing waste managed at a landfill as authorized by Section 25143.7, chapter 6.5 of the California Health and Safety Code which contains greater than one percent (1%) friable asbestos by weight. Asbestos containing waste does not include waste contaminated with another hazardous waste as identified in chapter 11. division 4.5, title 22, California Code of Regulations.

“Designated Asbestos Containing Waste Disposal Area” means an area specifically designated for the disposal of asbestos containing waste at a solid waste facility. A specifically designated area is a dedicated disposal area. The area shall be identified on a survey plat containing the location and dimensions of the area with respect to permanently surveyed vertical and horizontal control monuments. This survey plat shall be prepared and certified by a professional land surveyor licensed in California or a civil

engineer authorized to practice land surveying in California. The designated area shall be delineated with physical barriers, such as a fence, and signs.

“Disposal” means the final deposition of asbestos containing waste onto the land, into the atmosphere or into the waters of the state.

“Enforcement Agency” means the California Integrated Waste Management Board or its designee.

“Excavation” means any activity that exposes buried asbestos containing waste to the atmosphere.

“Handling” means the collection, processing, treatment, or packaging of asbestos containing waste for disposal.

“Leak tight” means that solids or liquids cannot escape or spill out. It also means dust tight.

“Natural barrier” means a natural object that effectively precludes or deters access. Natural barriers include physical obstacles such as cliffs, lakes, or other large bodies of water, deep and wide ravines, and mountains. Remoteness by itself is not a natural barrier.

“Solid waste facility” means any class II or class III landfill as defined in Sections 2532 and 2533, chapter 15, title 23, California Code of Regulations (CCR); and any unclassified waste management unit which accepts inert waste as defined in Section 2524, chapter 15, title 23, CCR.

“Visible emissions” means any emissions that are visually detectable without the aid of instrument, coming from asbestos containing waste or from handling and disposal of asbestos containing waste. This does not include condensed uncombined water vapor.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code; and 40 CFR Part 61 Section 140, Subpart M.*

Section 17897.15. Schedules of Compliance.

(a) The owner or operator of a solid waste facility that disposes of asbestos containing waste (ACW) in accordance with Section 25143.7 of the Health and Safety Code on or after August 1, 1996 and does not possess a solid waste facilities permit shall:

(1) Comply with the security, inspection, manifest system, recordkeeping and reporting requirements specified in this chapter on or before October 30, 1996.

(2) Implement the approved change(s) according to a schedule of compliance established by the Enforcement Agency.

(3) Obtain a solid waste facilities permit on or before November 29, 1997.

(b) The owner or operator of a solid waste facility that disposes of ACW in accordance with Section 25143.7 of the Health and Safety Code on or after August 1, 1996 and has a solid waste facilities permit which regulates the disposal of asbestos containing waste shall:

(1) Comply with the security, inspection, manifest system, recordkeeping and reporting requirements specified in this chapter on or before October 30, 1996.

(2) Implement the approved change(s) according to a schedule of compliance established by the Enforcement Agency.

(3) Obtain approval for RDSI amendments on or before November 29, 1997.

(c) The owner or operator of a solid waste facility that disposes of ACW in accordance with Section 25143.7 of the Health and Safety Code on or after August 1, 1996 and has a solid waste facilities permit which does not regulate the disposal of asbestos containing waste shall:

(1) Comply with the security, inspection, manifest system, recordkeeping and reporting requirements specified in this chapter on or before October 30, 1996.

(2) Implement the approved change(s) according to a schedule of compliance established by the Enforcement Agency.

(3) Obtain a revised solid waste facilities permit on or before November 29, 1997.

(d) The owner or operator of a solid waste facility that has not disposed of ACW in accordance with Section 25143.7 of the Health and Safety Code on or before August 1, 1996 and intends to dispose of ACW shall file an application for a permit revision request pursuant to Article 3.1, chapter 5 of this division to the Enforcement Agency and comply with the provisions specified in this chapter.

(e) The owner or operator of a new solid waste facility who intends to dispose of ACW in accordance with Section 25143.7 of the Health and Safety Code after August 1, 1996 shall file an application for a new permit pursuant to Article 3.1, chapter 5 of this division to the Enforcement Agency and comply with the provisions specified in this chapter.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Article 2. Standards

Section 17897.16. General Standards.

The owner or operator of any solid waste facility that disposes of asbestos containing waste shall ensure that the designated asbestos containing waste disposal area complies with requirements specified in this division. The designated asbestos containing waste disposal area shall be located, designed, constructed, operated and

maintained so that it will protect public health, worker safety, and the environment.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Section 17897.18. Design and Operating Requirements.

The owner or operator of a solid waste facility that disposes of asbestos containing waste shall:

- (a) establish a designated asbestos containing waste disposal area for the disposal of asbestos containing waste as defined in Section 17897.10;
- (b) establish a site control program with work zones and control points at the designated asbestos containing waste disposal area. At a minimum, work zones should be established for the active face, designated disposal area, handling and support areas;
- (c) segregate asbestos containing waste from refuse. At no time shall asbestos containing waste be disposed with refuse;
- (d) establish a means to prevent any visible emissions outside the designated asbestos containing waste disposal area during handling and disposal operations;
- (e) maintain the integrity of leak-tight containers and/or packaging at all times during the handling and disposal operations;
- (f) minimize the release and exposure of asbestos containing waste after placement in the disposal area by not compacting the waste prior to application of cover, at no time shall compaction equipment come into contact with asbestos containing waste containers or packaging;
- (g) after deposit, the owner or operator shall cover the asbestos containing waste with sufficient cover material to ensure complete coverage of the disposed asbestos containing waste and prevent re-exposure during continuing disposal operations.
- (h) cover shall be applied to the asbestos containing waste at a frequency that minimizes releases to the environment and threats to human health, but at a minimum of once every operational hour. An alternative frequency may be prescribed if the Enforcement Agency deems it appropriate.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Section 17897.19. Additional Requirements.

- (a) The owner or operator shall not accept asbestos containing waste without having received an Identification Number as described in Section 66260.10, title 22, California Code of Regulations (CCR), following the procedure specified by the Department of Toxic Substances Control.

(b) In addition to any requirements already imposed on landfills by Title 14, Division 7, Chapter 3 (commencing with Section 17200) and Chapter 5 (commencing with Section 18010), and in lieu of any requirements imposed by Title 8 and Title 22, the owner or operator shall comply with the following requirements:

(1) Provide additional site security to that required in Article 7.4 of chapter 3 of this division (commencing with Section 17656) to prevent unauthorized entry of persons into the designated asbestos containing waste disposal area. These requirements include:

(A) A surveillance system which continuously monitors and controls entry by the public into the designated asbestos containing waste disposal area or means to control entry into the designated asbestos containing waste disposal area at all times, unless the entire facility meets the above requirements or the facility does not allow public access.

(B) Post warning signs as specified in this Section around the designated asbestos containing waste disposal area. These signs must be posted in a manner so that a person can read them. These signs shall be at least 51 cm X 36 cm (20 inch x 14 inch) and state the following information:

DANGER: Asbestos Waste Disposal Site, Do Not Create Dust, Breathing Asbestos Is Hazardous To Your Health

The top line shall be in at least one and three fourths inch (4.4 cm) type. The second line shall be in at least one inch (2.5 cm) type. The third line shall be in at least three fourths inch (1.9 cm) type. The last line shall be in at least 48 point type. All four lines shall be in Sans Serif, Gothic or Block type. The line spacing shall be equal or greater to the height of the upper line. The legend shall be written in English, Spanish and in any other language predominant in the area surrounding the solid waste facility.

(2) In addition to disposal site records specified in Article 7.3 of chapter 3 of this division (commencing with Section 17636), maintain the additional information required by Article 5, chapter 15, division 4.5, title 22, CCR as it relates to hazardous waste manifests and recordkeeping.

(A) The solid waste facility shall comply with the requirements of chapter 18, division 4.5, title 22, CCR as they apply to the notification/certification/treatment of asbestos containing waste prior to land disposal. At a minimum, the solid waste facility should ensure that the asbestos containing waste is adequately wet or treated so that it meets this standard prior to disposal.

(B) The solid waste facility shall maintain an operating record as part of the disposal site record. This operating record shall include the following information: the quantity and date of each shipment of asbestos containing waste received, the disposal location(s) of each shipment of asbestos containing waste, a summary report of all incidents which require implementation of the contingency plan, results of inspection required by Section 17897.20, and training records as specified in subsection (c)(2)(B) of this Section. The operating record shall be maintained until closure of the facility.

(3) Meet the requirements for financial responsibility for liability claims and closure and post closure as specified in Articles 3.3 and 3.5 of chapter 5 of this division.

(c) The owner or operator shall at a minimum comply with the following additional requirements:

(1) The solid waste facility shall prepare a contingency plan. The contingency plan shall be designed to minimize the hazard to human health or the environment from unplanned sudden or non-sudden release of asbestos containing waste to the air, soil or water. The provisions of this plan shall be carried out immediately when a release could threaten human health or the environment.

(A) The contingency plan shall describe the actions facility personnel shall take in response to a release of asbestos containing waste. The plan shall describe arrangements agreed to by local emergency response agencies. The plan shall list names, addresses and telephone numbers of all persons qualified to act as emergency coordinators. This list shall be kept up to date. The plan shall list all emergency equipment located at the facility. This list shall be kept up to date. The plan shall include a description of each item on the list and a brief description of its capabilities. The plan shall describe a signal to begin evacuation, identify routes for evacuation, and identify alternate routes.

(B) The contingency plan shall be amended whenever: the regulations change, the plan fails, the facility changes in operation, the list of emergency coordinators changes, or the list of emergency equipment changes.

(C) The owner or operator shall note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, the owner or operator shall submit a written report on the incident to the Enforcement Agency.

(2) Solid waste facility personnel shall complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way which ensures the facility's compliance with these requirements.

(A) The training program shall be directed by a person trained in asbestos waste management procedures. At a minimum, the training program shall be designed to ensure that facility personnel are capable of responding effectively to an emergency by familiarizing them with the contingency plan. Personnel shall successfully complete the training described within six months of their assignment to duties which manage asbestos containing waste. Personnel shall also take part in an annual review of the initial training. No personnel shall work unsupervised until they have completed the training described in this Section.

(B) The owner or operator shall maintain the following documents and records at the facility: a job title for each job related to asbestos containing waste management and the name of each person filling that job; a written description of that job title; a written description of the type and amount of training required for that job title; and records

documenting that the training had been given.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Section 17897.20. Inspection Requirements.

The owner or operator of a solid waste facility that disposes of asbestos containing waste shall inspect the facility. This inspection shall include but not be limited to the designated asbestos waste containing area for deterioration, operator errors, problems with cover, leakage and discharges that may be causing or may lead to: (1) releases to the environment; or (2) a threat to human health. The owner or operator shall maintain an inspection schedule that identifies the items to be inspected, the frequency of the inspection and identify the types of problems that are to be looked for during the inspection. The owner or operator shall conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment but at a minimum of once each operating day. The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Remedial action must be taken immediately where a hazard is imminent or has already occurred. The owner or operator shall maintain a record of these inspections. Notwithstanding Section 17897.19(b)(2)(B), the reports resulting from these inspections need only be kept for three years from the date of the inspection.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Article 3. Excavation Requirements

Section 17897.21. Excavation Requirements.

(a) The owner or operator of any solid waste facility that disposes of asbestos containing waste shall ensure that the excavation or disturbance of buried asbestos containing waste will not pose a danger to the public, employees, and environment.

(b) Except as specified in subsection (g) of this Section, an excavation management plan shall be prepared and submitted to the Enforcement Agency for review and approval at least 45 days prior to excavating or otherwise disturbing any asbestos containing waste that has been buried at the disposal area. The excavation management plan shall include the following information:

(1) Schedule starting and completion dates.

(2) Map showing the location of the area where buried asbestos containing waste is to be excavated or disturbed, locations of on-site structures, and environmental monitoring collection and control systems.

(3) Response for disturbing the waste.

(4) A health and safety plan identifying the health and safety issues regarding the proposed excavation and measures to be taken to protect public health, worker safety, and the environment. The plan shall be developed and prepared by an industrial hygienist certified by the American Board of Industrial Hygiene. This health and safety plan shall include work practices and engineering controls to be used to protect worker health and safety during excavation.

(5) Procedures to be used to control emissions during the excavation, storage, transport, and ultimate disposal of the excavated waste. The Enforcement Agency shall consult with the appropriate air quality control district or state Air Resources Control Board when evaluating the proposed emissions control procedures.

(6) Location of any temporary storage site and the final disposal site.

(c) The excavation management plan shall be prepared by a professional engineer or engineering geologist registered in California.

(d) If the excavation will begin on a date other than the date specified in the plan, the owner or operator shall notify the Enforcement Agency at least 5 calendar days prior to the rescheduled start date by certified mail. If the completion date is delayed, the owner or operator shall notify the Enforcement Agency of the new completion date at least 2 calendar days before the original scheduled completion date by certified mail.

(e) In evaluating the proposed excavation management plan, the Enforcement Agency will consider:

(1) whether the excavation is necessary to the proposed use of the site, and will not increase the potential hazard to human health or the environment;

(2) whether the excavation is necessary to reduce a threat to human health, employees, and the environment; and

(3) recommendations of the appropriate air quality control district and the regional water quality control board.

(f) No later than 30 calendar days from receipt of the plan, the Enforcement Agency shall respond to the applicant regarding completeness of the plan. If the plan is incomplete, the applicant will be notified which parts of the plan are incomplete and the manner with which the plan can be made complete. If additional review time is needed, the applicant will be notified within 30 days of submittal of the plan.

(g) The 45 day notice is not required if an emergency excavation is performed to prevent or diminish an imminent and substantial endangerment to human health or the environment. If an emergency excavation is required, the owner or operator shall give verbal notice to the Enforcement Agency prior to beginning the excavation activity and submit a written report to the Enforcement Agency within 15 days after the emergency

excavation has been completed.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Article 4. Closure and Post Closure

Section 17897.24. General.

The owner or operator shall comply with all applicable closure and post closure requirements as specified in Article 7.8, chapter 3 and Article 3.4, chapter 5 of this division.

Authority cited: *Section 44820, Public Resources Code.*

Reference: *Section 25143.7, Health and Safety Code.*

Article 5. LEA Standards and Authorization

Section 17897.25. Authorized ACW Program.

Local Enforcement Agencies (LEA) shall meet the following requirements before being authorized to enforce this chapter.

(a) At a minimum, the LEA shall:

(1) meet the certification requirements as described in Article 2.1 of chapter 5 of this division.

(2) have provided field staff with training in compliance with Title 8 CCR, including but not limited to recognition of asbestos, respiratory protection, and selection and use of personal protective equipment. The LEA shall amend their Injury, Illness and Prevention Plan to comply with this requirement.

(3) submit an Enforcement Program Plan (EPP) amendment which addresses those elements modified by this authorization.

(4) have field staff trained in environmental sampling methodology and practice. The training shall include knowledge of sampling technique, field quality assurance/control, sample custody, sample collection and documentation.

(5) provide field staff with equipment necessary to comply with these requirement including but not limited to personal protective equipment and sample collection equipment.

(b) The LEA shall make an application for authorization to the Deputy Director of the Permitting and Enforcement Division of the California Integrated Waste Management Board by cover letter with documentation establishing that the requirements of subsection (a) have been met.

(c) The Board may make a provisional authorization to an LEA that meets the requirements of subsection (a)(1) and (2) of this Section. A provisional authorization may authorize the LEA to implement specific provisions of this chapter. The Board may grant full authorization upon complete compliance with the provisions of this Section.

(d) In jurisdictions where the Board does not authorize a local program, the Board will be the enforcement agency for ACW.

Authority cited: Sections 43200 and 44820, Public Resources Code.

Reference: Title 14, CCR, Division 7, Article 2.1, Chapter 5, and Title 8, CCR *Section 5192*.

Chapter 4. Resource Conservation Programs

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Recycling Market Development Zone Designation Process

Section 17900. Introduction.

For the purposes of this Article, both the question and answer in each Section have regulatory effect for implementation and enforcement. In addition to the regulations in this Article, statutory provisions contained in Sections 42010 through 42023 of the Public Resources Code govern Recycling Market Development Zones. Sections 17914 and 17914.5 of this Article relate to Recycling Market Development Zones redesignation requests received at any time following conditional or final designation.

Authority cited: *Section 40502 and 42013, Public Resources Code.*

Reference: *Section 42013 and 42014, Public Resources Code.*

Section 17901. Definitions.

In addition to the definitions contained in Public Resources Code Sections 40100-40201 and 42002, the following definitions apply to the regulations contained in this Article.

(a) "Board" means the California Integrated Waste Management Board.

(b) "Compost" means the product resulting from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream or which are separated at a centralized facility. "Compost" includes vegetable, yard, and wood wastes which are not hazardous wastes.

(c) "Designation cycle" means the time it takes to complete all the steps that the Board and applicants take to establish Recycling Market Development Zones. The steps include requesting applications, preparing and submitting applications, evaluating applications, selecting zones, and making final designations as Recycling Market Development Zones.

(d) "Final designation" means an applicant has received written notification from the Board stating it has satisfactorily completed all the requirements for designation as a Recycling Market Development Zone.

(e) "May" means a provision is permissive.

(f) "Must" means a provision is mandatory.

(g) "Proposed Zone" means the geographic area identified in a Recycling Market

Development Zone application for designation as a Recycling Market Development Zone.

(h) "Recycling Market Development Zone application" means the written application submitted to the Board, the contents of which are specified in Section 17905 of this chapter.

(i) "Recycling Market Development Zone" or "Zone" is a geographic area as defined by Public Resources Code Section 42002(c).

(j) "Redesignation" means Board approval of an application as defined in Section 17914, which describes proposed changes to a currently designated Recycling Market Development Zone. The proposed changes may include, but are not limited to expansion of an existing Zone's boundaries, reduction of a Zone's boundaries, renewal of Zone designation, and change in boundaries of a Zone.

(k) "Zone Administrator" means the person selected by the applicant to administer the activities of the Zone and report upon its activities to the Board.

(l) "Expansion" means the addition of a jurisdiction or jurisdictions to an existing Zone's boundaries.

(m) "Reduction" means the deletion of a jurisdiction or jurisdictions from an existing Zone's boundaries.

(n) "Change in the boundaries of a Zone" means the addition or reduction of land that does not involve the addition or deletion of a jurisdiction or jurisdictions.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 40050, 42002, 42010, 42014, 42019, 42020, and 42022, Public Resources Code.*

Section 17902. How does a Recycling Market Development Zone designation cycle start?

(a) By March 31 of each year, if and when the Board determines a need for additional zones, it will evaluate the maximum number of new Recycling Market Development Zones to be designated and initiate a new cycle. The Board will identify the statewide recycling market development objectives for the designation cycle. These are described in Section 17909.

(b) Within 120 calendar days of the action taken in (a) above, the Board will mail a notice to all who have made a written request to receive notification, announcing the date when a Recycling Market Development Zone designation cycle will begin. The notice will state the number of the Zones the Board will designate during the designation cycle and will list the statewide recycling market development objectives and their priority of importance.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*
Reference: *Section 42013 and 42014, Public Resources Code.*

Section 17903. What is the deadline for getting my application to the Board?

You must submit an original and four copies of your application to the Board by 4:00 p.m. on the one hundred twentieth (120) day after the commencement date of a designation cycle.

Section 17904. What if the Board receives my application after the deadline?

Your application will not be reviewed. The Board will notify you in writing within a minimum of seven days and a maximum of 30 days of the date it received your application to tell you that your application will not be reviewed because it was late. The median timeframe for notification is 21 days.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*
Reference: *Section 42013, Public Resources Code.*

Section 17905. What do I need to include in my Zone application?

Your Zone application must include all the items listed in (a) through (g), below. When the Board reviews your application, it will consider only the information in your application.

- (a) The name(s) and address(es) of the applicant or applicants, and
- (b) The name, address, and phone number of the Proposed Zone's administrator, and
- (c) The location of the Proposed Zone, as follows:
 - (1) A narrative description of the Proposed Zone's boundaries and location within the State of California, and
 - (2) On a street map, clearly identify the streets that mark the boundaries of the Proposed Zone, and
 - (3) A copy of the existing general zoning and land use maps for the Proposed Zone's area and the area immediately surrounding it. Clearly identify the boundaries of the Zone of this, map, and
- (d) Letters of support and commitment from all cities, counties, agencies, organizations, financial institutions, and businesses, including all suppliers of recovered materials, which you have identified in the application as having a role in the Proposed Zone, and
- (e) A copy of the resolution or ordinance, from each governing body having jurisdiction over any portion of a Proposed Zone, that makes the findings required by Section 42010(b) of the Public Resources Code, and

(f) A detailed recycling market development plan, as described in Section 17907, and

(g) A statement describing how you intend to satisfy the California Environmental Quality Act or demonstration of California Environmental Quality Act compliance.

(h) A statement demonstrating the Zone's commitment to environmental justice and to protecting the environment and public health and safety in a manner that does not unfairly affect any low-income and minority populations.

Authority cited: *Sections 40502, 42013, and 71110, Public Resources Code.*

Reference: *Sections 42010(b), 42015, and 71110(a), Public Resources Code.*

Section 17906. What will the Board consider when reviewing my application?

When the Board reviews your application, it will consider only the information in your application.

(a) First, the Board will review applications to determine that they are complete and meet the eligibility requirements that are described in Section 42002(c) of the Public Resources Code. Within 21 calendar days of receiving an application, the Board will send an Initial Review letter to the applicant, stating that the Board has received their application. The Board's minimum timeframe for completing an Initial Review is seven days. The median time frame is 14 days. The maximum timeframe is 21 days. The Initial Review Letter will specify any deficiencies regarding completeness or eligibility and grant the applicant 14 calendar days from the date on the letter to correct the deficiencies and submit the changes to the Board. The Board must receive the changes by 4:00 p.m. on the 14th day.

(1) Within the 21 day initial review period an applicant can make administrative changes such as changing the name of the contact person, submitting missing pages or correcting calculation or typographical errors. An applicant cannot make changes to the recycling market development plan or change the size of the proposed zone during this time.

(2) If more than one application includes the same area, or portion of an area, the Board will notify the applicants, in writing, within the 21 day Initial Review period. The applicants must resubmit their applications without overlapping areas within 30 calendar days of the date on the notification letter. The Board must receive your modified application by 4:00 p.m. on the 30th day.

(b) The Board will evaluate your application's recycling market development plan and, if it is accepted, will review it against the statewide recycling objectives.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Section 42020, Public Resources Code.*

Section 17907. What information must be included in my recycling market development plan?

The plan shall include, but is not limited to, the following information:

- (a) An analysis of how the Zone will be supplied with the necessary feedstock to support the number and types of businesses planned for development within the Zone.
- (b) A marketing plan that describes how the Zone will attract new, and expand existing, business.
- (c) A description of the funding and organizational structure of the Zone.
- (d) A description of the incentives the local governments plan to offer to businesses in the Zone.
- (e) A description of the financial support that will be available to businesses in the Zone.
- (f) An analysis as to whether the available or planned public works systems will be able to support the Zone.
- (g) A description of the real property and buildings available in the Zone for market development purposes.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 42012, 42014, and 42015, Public Resources Code.*

Section 17908. What happens if my recycling market development plan is accepted?

The Board will review your plan to see if it demonstrates that it is well-developed enough to succeed. If the Board accepts your plan, it qualifies for evaluation in relation to the statewide recycling market development objectives listed in Section 17909 of this Article. The Board will select those plans which best support these objectives.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 42015 and 42020, Public Resources Code.*

Section 17909. What are statewide recycling market development objectives?

Statewide recycling market development objectives focus on State of California recycled materials market development policy and needs and are defined by the Board prior to the commencement of each designation cycle. The relative importance of these objectives may change from one designation cycle to another to reflect the current recycled materials market. The relative importance of each objective will be stated at the beginning of a designation cycle in the Board's notice of commencement of each designation cycle. Statewide objectives include, but are not limited to:

- (a) To extend the landfill capacity available to the applicant's jurisdiction and region.

- (b) To encourage advances in recycling technology.
- (c) To distribute zones to encourage statewide recycling.
- (d) To stimulate the development of markets for recycled materials.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 42015 and 42019, Public Resources Code.*

Section 17910. What happens if the Board designates my area as a Zone?

(a) The Board will send you a letter, hereafter referred to as "Notification", within a minimum of 90 and a maximum of 120 calendar days of the application deadline and tell you whether or not you were selected as a Recycling Market Development Zone. The median time frame for sending you notification is 110 calendar days. If the Board designates your area as a Zone, the Notification may state that the designation is conditional and specify certain conditions that you must satisfy in order to receive final designation from the Board.

(b) Actions you must complete within 90 days prior to receiving final designation may include, but are not limited to, the following:

- (1) You must submit copies of all finalized multi-jurisdictional agreements.
- (2) You must demonstrate compliance with the California Environmental Quality Act.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 42014 and 42015, Public Resources Code.*

Section 17911. I have completed all conditions listed in my Notification. When can I get final designation?

(a) After you satisfy all the conditions in your Notification, you must apply in writing for final designation. The Board must receive your request for final designation within 120 calendar days from the date of the Notification. Your request for final designation must document that you meet the conditions that were specified in your Notification. The Board will make its determination within a minimum of 45 calendar days and a maximum of calendar 90 days of receipt of your request for final designation. The median timeframe is 75 calendar days.

(b) If you do not satisfy all the conditions of your Notification within the 120 calendar day time period, you will forfeit your designation status.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Sections 42014 and 42015, Public Resources Code.*

Section 17912. When does my final designation become effective?

Your final designation becomes effective on the date the Board awards final

designation. At that time, you become eligible to receive low-interest loans pursuant to Section 42145 of the Public Resources Code.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Section 42014, Public Resources Code.*

Section 17913. Do I have to submit regular reports?

Yes. By March 1 of each year you must submit a report to the Board. At a minimum, the report must include the following:

- (a) The names and addresses of the recycling businesses in the Zone, and
- (b) The types and amounts of postconsumer or secondary waste materials used as feedstock by recycling businesses in the Zone.
- (c) Any marketing efforts undertaken and the outcomes of those efforts.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Section 40507, Public Resources Code.*

Section 17913.5. Can a Zone terminate its Zone designation?

Yes, a Zone can terminate its Zone designation. A zone that wishes to terminate its Zone designation, must submit the following:

- (a) A letter from the Zone Administrator requesting termination of Zone designation.
- (b) Copies of resolutions or ordinances from each affected jurisdiction within the zone boundaries requesting termination of Zone designation.

Within 14 calendar days of receiving the above documents, Board staff will review the documents to make sure that the requirements in Sections (a) and (b) above have been met. Upon determination that the requirements have been met, a letter will be sent to the Zone Administrator informing that Zone related services by the Board will cease and the Zone designation has been terminated.

Authority cited: *Sections 40502 and 42023, Public Resources Code.*

Reference: *Section 42013 and 42014, Public Resources Code.*

Section 17914. Can a Zone be redesignated?

Yes, the Board may redesignate a Zone. The Zone Administrator must submit an application to the Board describing proposed changes to the existing Zone plan. Changes to an existing Zone plan may include, but are not limited to: a request for renewal of a current Zone designation; any request for approval of an expansion or reduction or change in boundaries of a Zones. For redesignation applications that seek renewal of a current Zone designation, a completed application must be submitted to the Board at least 60 calendar days prior to the Zone's expiration date. Each application

for redesignation must include, but is not limited to, the following:

(a) The name(s) and address(es) of the redesignation applicant or applicants and the Zone Administrator.

(b) A statement of the purpose for submitting the redesignation application, selected from the following categories:

(1) renewal of designation, or

(2) zone expansion, or

(3) reduction, or

(4) change in boundaries.

(c) Documents depicting the location of the proposed redesignation area, as follows:

(1) A description of the redesignation area's boundaries and location within the State of California,

(2) A street map identifying the streets that mark the boundaries of the redesignation area on a street map, and

(3) For redesignation categories (1) and (2), (3), and (4) listed in Section (b) above, copies of the existing general zoning and land use maps for the proposed redesignation area and the area immediately surrounding it. Clear identification of the boundaries of the proposed changes to the Zone should be on the maps.

(d) For redesignation categories (1) and (2) listed in Section (b) above, a copy of the Notice of Determination which has been filed with the State Clearinghouse in the Office of Planning and Research as evidence of compliance with the California Environmental Quality Act (Public Resources Code Sections 21000 et seq.) as it applies to the proposed changes in the Zone.

(1) Copies of any multi-jurisdictional agreements that pertain to the administration of an existing Zone.

(2) A statement demonstrating the Zone's commitment to environmental justice and to protecting the environment and public health and safety in a manner that does not unfairly affect any low-income and minority populations.

(e) For a redesignation application submitted to obtain renewal of a designation, a discussion of why redesignation is sought and a copy of the resolution or ordinance from each governing body having jurisdiction over areas included in the Zone boundary that makes the findings required by Section 42010(b) of the Public Resources Code:

(1) A discussion of why redesignation is sought

(2) A copy of the resolution or ordinance from each governing body having jurisdiction over areas included in the Zone boundaries that makes the findings required by Section 42010(b) of the Public Resources Code

(3) Copies of any multi-jurisdictional agreements that pertain to the administration of the existing Zone

(4) An updated Market Development Plan that meets the requirements in CCR Section 17907 (a)-(g).

(f) For a redesignation application that will result in expansion of a Zone:

(1) A statement of justification concerning why the expansion is necessary, how it will complement the existing Zone, and how this proposed expansion will create additional markets for recyclable materials;

(2) Copies of resolutions from each governing body having jurisdiction over any portion of the current Zone for which redesignation is being requested that supports the proposed expansion;

(3) Copies of resolutions or ordinances from each governing body having jurisdiction over areas not currently included in the Zone boundary that makes the findings required by Section 42010(b) of the Public Resources Code; and

(4) A Supplemental Recycling Market Development Plan which shall include, but is not limited to, the following:

(A) An analysis of how the new area of the Zone will be supplied with the necessary feedstock to support the number and types of businesses planned for development within the Zone.

(B) A marketing plan that describes how the new area of the Zone will attract new businesses, and expand existing businesses.

(C) A description of how the new area of the Zone will be funded and fit into the organizational structure of the current Zone, and an organizational chart of the proposed Zone.

(D) A description of the incentives the local governments plan to offer to businesses in the new area of the Zone.

(E) A description of the financial support that will be available to businesses in the new area of the zone.

(F) An analysis of the available or planned public works systems that will be available to support the new area of the Zone.

(G) A description of the real property and buildings available in the new area of the

Zone for market development purposes.

(5) Letters of commitment and support for the new Zone area, from jurisdictional entities having a role to play in implementing the expanded Zone's Market Development Plan.

(g) For redesignation applications submitted that will result in reduction in the area of a Zone, a description of the proposed change in the Zone boundaries and copy of the resolution or ordinance from each governing body having jurisdiction over the area of the reduction.

(h) For redesignation applications submitted that will result in change in boundaries of a zone,

1) A description of the proposed change in the Zone boundaries.

2) Copy of the resolution or ordinance from the jurisdiction having governing authority on the proposed change in boundaries.

3) A statement describing how you intend to satisfy the California Environmental Quality Act or demonstration of California Environmental Quality Act compliance.

4) A statement demonstrating the Zone's commitment to environmental justice and to protecting the environment and public health and safety in a manner that does not unfairly affect any low-income and minority populations.

Authority cited: *Sections 40502, 42013, 42014, and 71110, Public Resources Code.*
Reference: *Sections 42010, 42012, 42014, 42015, 42016 and 71110(a), Public Resources Code.*

Section 17914.5. What is the Board's process for reviewing Zone redesignation applications and designating Zones?

(a) Upon receipt of your application for redesignation, the Board will review the application to determine that it is complete. Within 21 calendar days of receiving an application for redesignation, the Board will send an Initial Review Letter to the applicant, stating that the Board has received the application.

The minimum time frame for completing the Initial Review is seven calendar days. The median time frame is 14 calendar days. The maximum time frame is 21 calendar days.

The Initial Review Letter will notify each applicant of the date that the application was received, and whether the application is complete or incomplete. If the application is incomplete, the Initial Review Letter will specify any deficiencies regarding completeness or eligibility and grant the applicant 14 calendar days from the date of the letter to correct the deficiencies and submit the changes to the Board.

The Board must receive the noted changes by 4:00 p.m. on the 14th day from the date the letter is sent. Within ten calendar days of receiving the additional information

requested by staff in the Initial Review Letter, the Board will notify each applicant whether the application is complete or incomplete.

(1) At any time within the 21 day Initial Review period, and prior to receiving the Board's Initial Review Letter, an applicant can make minor administrative changes such as changing the name of a contact person, submitting missing pages or correcting minor errors.

(b) The Board will conduct a Technical Review of the application, to evaluate the Market Development Plan for its technical adequacy and its ability to succeed. The Technical Review will begin no later than 14 calendar days after the Board's receipt of a complete application for redesignation. The minimum time frame for completing the Technical Review is seven calendar days. The median time frame is 14 calendar days. The maximum time frame is 21 calendar days.

Following the Technical Review, a letter will be sent to the applicant specifying any technical deficiencies in the application. The applicant shall have 14 calendar days to correct the noted deficiencies and submit changes to the Board. The Board must receive changes by 4:00 p.m. on the 14th day from the date the letter is sent.

(1) Within the 21 day Technical Review period, and prior to receiving the Board's Technical Review Letter, an applicant may correct technical deficiencies as identified in the technical review of the application such as additional analysis regarding targeted feedstock for market development purposes, development of matching local incentives and sources of funding, property and infrastructure availability, inclusion of clearly stated goals and objectives, specific strategy for business attraction and retention efforts, specific strategy for advertising and promotion of the Zone, and administration and funding sources.

(c) Upon receipt of corrections of technical deficiencies identified in the technical review by staff, the Board will either grant or deny the request for redesignation. The redesignation will take effect upon the Board's formal approval.

The Board will send a "Notification" letter to the applicant informing it of its decision, within 14 calendar days of its decision. If an applicant is denied redesignation it may reapply.

(1) If the Board grants conditional redesignation of a Zone, the Notification letter will specify conditions of approval that must be satisfied prior to final redesignation. The applicant will have 120 calendar days from the date of the Notification letter to satisfy the conditions of redesignation.

The Board must receive a written request from the Zone applicant for final redesignation. If conditions of redesignation are not satisfied within the 120 calendar day period, redesignation status will not be approved. The applicant may reapply for redesignation.

Authority cited: *Sections 40502, 42013, and 42014, Public Resources Code.*

Reference: *Section 42014, 42015, and 42020, Public Resources Code.*

Section 17915. Do composting industries qualify for the incentives offered in a Recycling Market Development Zone?

Yes.

Authority cited: *Sections 40502 and 42013, Public Resources Code.*

Reference: *Section 42015, Public Resources Code.*

Section 17916. Resource Recovery Facility (Site). [Repealed]

Section 17917. Solid Waste or Wastes. [Repealed]

Section 17918. Solid Waste Management. [Repealed]

Section 17919. Transfer Station. [Repealed]

Section 17920. Waste Processing Facility (Site). [Repealed]

Section 17921. Environmental Impact Report Notice of Completion. [Repealed]

Section 17925. Purpose. [Repealed]

Section 17926. Filing of Notice of Intent. [Repealed]

Section 17927. Facility Location and Information. [Repealed]

Section 17928. Land Use Approval. [Repealed]

Section 17929. Justification of Need. [Repealed]

Article 1.1. Recycling Market Development Zone Low-Interest Revolving Loan Fund

Section 17930. Purpose of the Recycling Market Development Revolving Loan Program.

The Recycling Market Development Revolving Loan Program (Program) provides an alternative source of financing for recycling-based businesses, non-profit organizations, and public entities to increase the diversion of non-hazardous solid waste from California landfills and to promote market demand for secondary and postconsumer materials. It assists the Board and local agencies comply with Public Resources Code Sections 40051 and 41780, respectively, and helps local Recycling Market Development Zones (RMDZs) meet the market development goals identified in their recycling market development plans, required by Section 17907 of this Chapter, by fostering recycling-based business development within the RMDZs.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42010 and 42023.1, Public Resources Code Section*

Section 17931. Definitions.

- (a) "Applicant" means an entity that is applying for a Loan.
- (b) "Application" means the information an Applicant must provide to the Board when seeking a loan.
- (c) "Board Loan Committee" or "Loan Committee" means the committee referred to and established in Section 17935.5 of this Chapter.
- (d) "Borrower" means an Applicant whose application has been approved and who has executed a Loan Agreement.
- (e) "Board" means California Integrated Waste Management Board.
- (f) "CEQA" is the California Environmental Quality Act found in Public Resources Code Sections 21000, et seq.
- (g) "Capital Improvements" means physical improvements to publicly owned land, including buildings, structures and fixtures or attachments of a permanent or semi-permanent nature, including large equipment, erected on and affixed to the land.
- (h) "Designation" means a Zone Applicant has received written notification from the Board stating it has satisfactorily completed all the requirements for designation as a Recycling Market Development Zone.
- (i) "Infrastructure" means the basic facilities, such as sewer, water, transportation, and utility systems.
- (j) "Loan" means a loan from the Recycling Market Development Revolving Loan Subaccount or the California Tire Recycling Management Fund.
- (k) "Loan Agreement" means a written agreement between a Borrower and the Board for a Loan made in accordance with this Article.
- (l) "May" means a provision is permissive.
- (m) "Must" means a provision is mandatory.
- (n) "Onerous Debt" means debt with high interest rates and/or short terms that causes a negative impact on the Borrower's cash flow and jeopardizes the Borrower's ability to convert to or expand its diversion of recycled or secondary material.
- (o) "Phase I Assessment" means an assessment to be completed by a specialized engineering or consulting firm that provides a professional opinion, based on obvious evidence, as to the past and potential usage, storage, handling, or disposal of materials within the property that have been or may be toxic or hazardous, or may cause violations of state and/or federal laws, rules, or regulations pertaining to soil and water

quality; and to identify past and potential off-site contaminant sources that did have, or may have an adverse environmental impact on the property. The assessment may be performed at the time of loan application or at any time during the life of the loan, as determined necessary by the Board. Hazardous materials and wastes that are to be identified include those meeting the definitions of Public Resources Code Section 40141 and Health and Safety Code Sections 25117 and 25501(k).

(p) "Postconsumer waste material" is defined in Public Resources Code Section 42002(b).

(q) "Project" means the activity for which a loan is requested.

(r) "Recycling Market Development Zone" or "Zone" is a geographic area as defined by Public Resources Code Section 42002(d).

(s) "Reuse" means to take a product, rather than a material, which has served its useful life or is factory defective, and provide some new value to the product, by reconditioning, reprocessing, or some other process which makes the product usable again for its original intended purpose.

(t) "Secondary waste material" is defined in Public Resources Code Section 42002(f).

(u) "Source reduction" is defined in Public Resources Code Section 40196.

(v) "Value added product" means an item which has increased in value or changed its character or composition through a manufacturing or reuse process. Collecting, sorting and/or baling of recycled or recovered materials for convenience or ease of transportation does not constitute adding value.

(w) "Zone administrator" is defined in Section 17901(j) of this Chapter.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42023.1 and 42023.4, Public Resources Code*

Section 17932. Eligible Applicants.

An eligible applicant is one whose project is located within the boundaries of the Recycling Market Development Zone. In the case of mobile operations, the primary business location for the project must be located within the boundaries of the Recycling Market Development Zone. Eligible applicants include:

(a) Businesses and not-for-profit organizations who:

(1) Practice, or propose to practice, appropriate source reduction; or

(2) Use or propose to use postconsumer or secondary waste materials to produce a value added product.

(b) Local governments or agencies who seek to provide infrastructure and/or capital

improvements in support of organizations referred to subsection (a) of this Section.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.1, Public Resources Code Section*

Section 17932.1. Tire Recycling Projects.

Loans made with funds from the California Tire Recycling Management Fund may be carried out in accordance with the process and/or eligibility criteria set forth in this Article and Public Resources Code Sections 42872-42875.

Authority cited: *Sections 40502 and 42881, Public Resources Code.*

Reference: *Sections 42872, 42873 and 42874, Public Resources Code Section*

Section 17933. Priority Projects.

Priority consideration shall be given to those projects that meet the following criteria:

(a) Demonstrate an ability to repay the loan;

(b) Increase market demand for the secondary or postconsumer waste material used in the

project;

(c) Satisfy additional statewide recycling market development objectives as described in Section 17909 of this Chapter; and

(d) Satisfy additional priorities that are determined by the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.1, Public Resources Code Section*

Section 17934. Loan Amounts.

The maximum loan amount is three-fourths (3/4) of the cost of each project, not to exceed two million dollars (\$2,000,000).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4(a)(4), Public Resources Code Section*

Section 17934.1. Uses of Funds.

(a) For eligible businesses and not-for-profit organization applicants, loan funds may be used for:

(1) equipment purchases,

(2) real property purchases,

(3) working capital, or

(4) refinancing of onerous debt.

(b) For eligible local governments or agencies, loan funds shall be used only for publicly owned infrastructure and capital improvements located within the Zone which directly support recycling based business activities that would be eligible for a Loan.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.1, Public Resources Code.*

Section 17934.3. Fees.

A non-refundable application fee of \$300.00 shall accompany each loan application. A loan fee of 3 percent shall be charged upon loan closing. The Board reserves the right to periodically adjust the application and loan origination fees. The application fee and loan fee are considered part of the project cost and may be financed.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.1, Public Resources Code.*

Section 17934.5. Interest Rate.

(a) The interest rate for loans is determined by the Board and is based on, but may vary from, the Surplus Money Investment Fund (SMIF) rate. The Board, as it deems appropriate, may adjust the interest rate semiannually, after the SMIF rate is announced by the Controller's Office in January and July of each year. The Board shall keep the interest rate as low as possible, consistent with current market conditions and the long-term sustainability of the Recycling Market Development Revolving Loan Program.

(b) The interest rate for loans funded through leveraging programs pursuant to Article 1.2 will be negotiated between the Board, the leveraging entity, and if applicable the lender.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935. Application Process.

(a) Applicants may submit their pre-applications and applications to the Board at any time throughout the year.

(b) Applicants shall not submit applications for approval by the Board unless a Zone has received designation or redesignation status, as defined in Section 17901(d) of this Chapter.

(c) The applicant may submit a pre-application, as determined by the Board, to obtain a rapid evaluation of applicant's or a project's eligibility, prior to submitting a full application.

(d) The Applicant must submit an application with original signatures to the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.1. Application Content.

(a) All Applicants must apply in writing for a loan. The Board may make a loan application form available to assist applicants in applying for a loan. A complete application may consist of a written request containing the following items:

(1) Characteristics of the business shall include the applicant legal name, physical address, mailing address, contact person's name and phone number, copy of business organizational documents, copies of business licenses and permits, business plan, key ownership and management resumes, list of all owners with percentage owned and titles, authorizations to obtain credit reports, a Recycling Market Development Zone Administrator's acknowledgement of the project; payment of a loan application fee, and certification of compliance with applicable laws and regulations to properly conduct and operate the business in California.

(2) Demonstration of ability to repay shall include the business historical and projected financial statements and income tax returns; key management and ownership personal financial statements and income tax returns; schedules of debts; facility lease agreement or copy of deed of trust on the project site; sources and uses of all project costs. The financial projections shall include a list of assumptions under which they were prepared that are reasonable and can be substantiated. The applicant may need to provide a feasibility study and cost break even analysis accounting for the fixed and variable costs to produce a product including the sales price of the product and the quantity of units that must be produced and sold to achieve a break even and profitable cash flow.

(3) Demonstration of the ability to collateralize the loan shall include a detailed list of assets that will secure the loan with documentation supporting the asset value such as appraisals, purchase orders, invoices, cancelled checks, or similar documents; and ownership verification such as deeds of trust, Uniform Commercial Code financing statements, Ownership Certificates. The Board reserves the right to discount the asset value based on age and remaining expected useful life.

(4) The applicant shall provide documentation to substantiate a matching funds requirement of twenty-five percent or more investment into the project. This shall be achieved by providing purchase orders, invoices, cancelled checks, supplemental financing commitment letters or promissory notes, executed investor agreements with evidence of transfer of funds, or other similar documents.

(5) Description of the project to be financed including the feedstock source, type, quantity and availability, the manufacturing process, end product specifications and marketability, current and projected tonnage of materials to be diverted from California landfills, public environmental reports and indemnification to discern the possible risks

which may arise from hazardous waste or materials related to the project or previous operations at the site.

Additional information required from businesses and not-for-profit organizations is described in subsection (b) below. Local government or agency applicants must also provide the information requested in subsections (b) and (c) below.

(b) Applicant shall provide any further information or documentation deemed necessary by the Board to determine the creditworthiness of the Applicant, or the Applicant's ability to secure and repay the loan.

(c) Applications from local governments or agencies must contain the following additional information:

(1) A description of the local government's or agency's activities and responsibilities;

(2) The local government's or agency's annual financial operating statements for the previous three years;

(3) A governing board resolution granting authority to make application to the Board for a loan commitment.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.2 Loan Agreement.

Each Loan Agreement shall include, but not be limited to, the following terms and conditions:

(a) The interest rate of the loan as specified in Section 17934.5 of this Article.

(b) The term of the loan shall not exceed 10 years when collateralized by assets other than real estate, or not more than 15 years when partially or wholly collateralized by real estate.

(c) A description of the security and conditions.

(d) Timeframes for complying with the conditions of loan closing and any special conditions that must be satisfied prior to, or covenants which must be complied with after, the disbursement of funds.

(e) Identification of what is considered an event of default, including a provision that, upon failure to comply with the loan agreement, or if any information provided by the Applicant is found to be untrue, any remaining unpaid amount of the loan, with accrued interest, will be immediately due and payable, upon determination by the Board.

(f) A provision that the Borrower agrees to waive any claims against and to indemnify and hold harmless the State of California, including the California Integrated Waste

Management Board, from and against any and all claims, costs, and expenses stemming from operation, maintenance, or environmental degradation at the site.

(g) Proof of adequate insurance for the business, naming the Board as loss payee, and when appropriate, naming the Board as additional insured, up to the amount of the loan.

(h) Submission of borrower's and guarantor's financial statements and tax returns, diversion reports, business insurance, and worker's compensation insurance, upon request by the Board.

(i) Any other provision needed to properly analyze and document a loan deemed necessary by the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.3 Process For Preliminary Review.

Upon receipt, Board staff shall review each application to determine whether the Applicant and/or Applicant's project is eligible for a loan, pursuant to Section 17932 of this Article, and whether the application is complete, pursuant to Section 17935.1 of this Article. Within 10 working days of receiving the application, Board staff shall do one of the following:

(a) Send a letter to the Applicant indicating that the application is incomplete, or that the Applicant and/or Applicant's project is ineligible for a loan, and specifying the steps, if any, which the Applicant may take to correct identified deficiencies; or

(b) Notify the Applicant by letter that the Applicant and/or Applicant's project is eligible for a loan, and that the application is complete and shall be evaluated by the Board staff.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.4 Process For Board Staff Review.

(a) The Board staff shall prepare an analysis of each application. Applications which meet the following criteria shall be recommended for approval to the Loan Committee, on a first come, first served basis:

(1) The Applicant is found creditworthy, and

(2) The collateral and the source of repayment are appropriate for the requested loan amount; and

(3) The Applicant has adequately demonstrated the appropriateness of the loan for use in the project as specified in Section 17935.1 of this Article.

(b) Where additional assistance may be needed from the Loan Committee for a determination, staff may forward those applications and analysis to the Loan Committee without a recommendation.

(c) Where the Applicant does not meet the criteria set forth in subsection (a), the Applicant will be notified in writing of its failure to meet the criteria and the process for appeal of the decision.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.5. Establishment of the Loan Committee.

(a) A Loan Committee is hereby established to assist the Board in meeting the goals of the Program.

(b) The Loan Committee shall be composed of not more than nine individuals appointed by the Board.

(c) The Loan Committee shall be comprised of a balanced cross-Section of individuals from the commercial lending community, both public and private sectors, from throughout the state who demonstrate expertise in financial analysis and credit evaluation.

(d) Members of the Loan Committee shall each be appointed to a three-year term, except that the newly added members terms may be adjusted so that a staggered schedule of terms is established where not more than four members terms shall expire during any single calendar year.

(e) Vacancies shall be filled using the same procedures as used for the initial appointments, and shall be filled for the remaining portion of the respective terms.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42023.4, Public Resources Code.*

Section 17935.55 Process For Loan Committee Review

(a) The Loan Committee shall meet monthly or as needed.

(b) The Loan Committee shall evaluate the staff analysis of loan requests presented by Board staff pursuant to the Review Process of Section 17935.4 of this Article.

(c) The Loan Committee shall recommend applications for approval based only on their financial soundness and their ability to meet the underwriting criteria as described in Section 17935.4(a) of this Article.

(d) The Loan Committee may advise the Board as requested on other aspects of the loan program.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 42023.4, Public Resources Code.*

Section 17935.6 Board Approval

(a) If the Board approves a loan, the Applicant and the Board shall enter into a Loan Agreement pursuant to the terms specified in Section 17935.2 of this Article. Funds shall be disbursed according to the terms of the Loan Agreement.

(b) The Board's loan commitment shall be in effect for a period of 90 days following Board approval. The loan commitment may be extended, for cause, for an additional 90 days. Extension of the loan commitment beyond the second 90 day period shall occur only if agreed to by both the Board and the Applicant.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 42023.4, Public Resources Code.*

Section 17936. Auditing of Expenditure of Loan Proceeds

The Board, or the Department of Finance, may audit the expenditure of the proceeds of any loan made pursuant to this Article.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 42024, Public Resources Code.*

Section 17937. Coordination with the County. [Repealed]

Section 17938. Determination of Findings by the Board. [Repealed]

Section 17939. Determination of Non-Compliance. [Repealed]

Article 1.2. Leveraging the Recycling Market Development Zone Revolving Loan Fund

Section 17939.1. Purpose of Leveraging the Revolving Loan Fund.

The purpose of leveraging Board funds in the Recycling Market Development Revolving Loan Subaccount (Subaccount) is to increase the funding for loans to recycling-based businesses and to promote the long-term sustainability of the Recycling Market Development Revolving Loan Program. Subaccount funds will be used to stimulate more lending by private banks, public institutions and non-profit organizations than the Board could make on its own to recycling-based businesses.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 42023.1, 42023.6 and 42024, Public Resources Code.*

Section 17939.2. Definition.

“Leverage” and “leveraging” means the expenditure, lending, investment or other uses of funds from the Recycling Market Development Revolving Loan Program Subaccount

(Public Resources Code Section 42023.1) in a manner that generates or facilitates the generation of financial capital that is made available as loans to borrowers eligible for loans under the Board's Recycling Market Development Revolving Loan Program as described in Article 1.1 of this Chapter. Leveraging programs increase the number and value of loans for specified purposes beyond that which the Board, acting alone, could make. Typical examples of leveraging include, without limitation, pooling funds by multiple entities under specified arrangements to create a greater supply of loan capital for eligible borrowers, loan guarantee programs where an entity guarantees all or a portion of an eligible loan, and insurance where an entity assures that a loan will be repaid in a timely manner.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40506.1, 42023.1, 42023.6 and 42024, Public Resources Code.*

Section 17939.3. Types of Leveraging Entities and Programs.

The types of leveraging programs in which the Board may participate, and financing entities with which the Board may contract, include but are not limited to:

(a) The Capital Access Program, that provides loan default insurance as a credit enhancement, pursuant to Public Resources Code 42023.6.

(b) The State Small Business Loan Guarantee program, that provides a state guarantee to entice bank and non-bank entities to lend to California small businesses, pursuant to California Corporations Code Section 14000 et seq.

(c) Financial Development Corporations (FDC) that issue state loan guarantees, pursuant to California Corporations Code Section 14000 et seq.

(d) Community Development Entities (CDE) for access to the New Markets Tax Credit (NMTC) program, pursuant to Title 1, Subtitle C, Section 121 of the Community Renewal Tax Relief Act of 2000.

(e) Community Development Financial Institutions (CDFI) for access to the Equity Equivalent Investment (EEI) and Program-Related Investment (PRI) programs, pursuant to Title 12, Chapter 47, Subchapter 1, Section 4701 et seq. of the United States Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42023.1, 42023.6 and 42024, Public Resources Code.*

Section 17939.4. Leveraging Activities.

The Board may initiate, coordinate or participate in activities, either directly or indirectly, in partnership with public, non-profit or private entities, or by itself, that leverage Recycling Market Development Revolving Loan Program Subaccount (Subaccount) funds. The leveraging of Subaccount funds may include, but is not limited to, the transfer and/or encumbrance of Subaccount funds for leveraging; the establishment of trust accounts for the receipt, retention and expenditure of funds designated for

leveraging; the pooling of Subaccount funds with other individual or multiple entities under specified arrangements; the use of Subaccount funds in support of loan guarantee programs, where an entity guarantees all or a portion of an eligible loan, or as insurance where an entity assures that a loan will be repaid in a timely manner; the use of Subaccount funds for grants or loans to public, private or non-profit organizations to implement leveraging programs; and the acceptance of funds from investors and institutions.

Authority cited: *Sections 40502 and 42881, Public Resources Code.*

Reference: *Sections 42023.1, 42023.6 and 42024, Public Resources Code.*

Section 17939.5. Loan Sale.

(a) The Board may sell loans, either in bulk quantity or individually; in whole or in part; on a recourse or non-recourse basis; on an advance commitment, forward, or participation basis; and may retain or relinquish the servicing rights;

(b) the Board shall not sell its loans if the loan sale results in more than a twenty-five percent (25%) discount of the principal amount, excluding any expenses or reserves required as a condition of the loan sale; and

(c) all proceeds received from the sale of loans shall be deposited into the Recycling Market Development Revolving Loan Program Subaccount.

Authority cited: *Sections 40502 and 42881, Public Resources Code.*

Reference: *Sections 42023.1, 42023.6 and 42024, Public Resources Code.*

Article 2. Recycling Investment Tax Credit Program [Repealed]

Article 3. Rigid Plastic Packaging Container Program.

Section 17942. Regulatory Effect Of Questions And Answers; Effective Dates. [Repealed]

Section 17943. Definitions.

The following definitions, as well as the definitions found in Public Resources Code Sections 42300-42345, apply to the regulations in this Article.

(a) "Calendar Year" means a year beginning January 1 and ending December 31.

(b) "Concentrated Product" means a product which has been intensified, or made denser or stronger, to achieve more uses per unit.

(c) "Container Line" means a group of rigid plastic packaging containers manufactured with identical plastic resin(s), layers, style, shape, volume and weight.

(d) "Container Manufacturer" means a company or a successor company that

manufactures and sells any rigid plastic packaging container subject to this Article to a product manufacturer that sells or offers for sale in California any product held in that container.

(e) "Curbside Collection Program" means a recycling program that collects materials set out by households for collection at the curb at intervals not less than every two weeks. "Curbside collection program" does not include redemption centers, buyback locations, drop-off programs, material recovery facilities, or plastic recovery facilities.

(f) "Department" means the California Department of Resources Recycling and Recovery.

(g) "Director" means the Director of the Department of Resources Recycling and Recovery.

(h) "Final End User" means the person or entity that removes the product from the rigid plastic packaging container and discards or recycles the rigid plastic packaging container.

(i) "Material Type" for purposes of this Article means feedstock categories, such as, but not limited to, paper, glass, aluminum and individual plastic resins.

(j) "May" means a provision is permissive.

(k) "Measurement Period" means the calendar year for which compliance is being determined as part of the certification or auditing process described in Sections 17945.1, 17945.2, 17945.3, 17945.5, 17947, and 17948.1 of this Article. For products introduced for sale in California after January 1 of a measurement period, their first measurement period shall be the remainder of that calendar year.

(l) "Must" or "Shall" means a provision is mandatory.

(m) "Newly Introduced Product" means any product held in a rigid plastic packaging container that is first sold or offered for sale in California after January 1, 1995. Products for which such claims as "new" or "improved" are made and products for which the rigid plastic packaging container has been changed by such criteria as size, color, or labeling, are not "newly introduced" packages or products.

(n) "Non-Source Reduced Container" means a rigid plastic packaging container that is not considered source-reduced under the criteria established for this program as found in Sections 17943 (af) and 17945.3 (d)(2) – (5) of this Article.

(o) "Original Rigid Plastic Packaging Container" means a rigid plastic packaging container that is holding a product when initially sold to the final end user and which may later be reused or refilled, as stated in Section 17945.3 (d)(6) and (d)(7) of this Article.

(p) "Particular Type Rigid Plastic Packaging Container" means a rigid plastic packaging

container which holds a single type of generic product, such as all-purpose cleaner or detergent.

(q) "Postconsumer Material (PCM)" means a material that would otherwise be destined for solid waste disposal, having completed its intended end-use and product life cycle.

(1) Rigid plastic packaging containers holding obsolete or unsold products that are commonly disposed, and not commonly reused within an original manufacturing process, shall be considered postconsumer material when used as feedstock for new rigid plastic packaging containers or under the alternative compliance method in Section 17944.1.

(2) Finished plastic packaging that has been rejected by a container or product manufacturer, and that is commonly disposed, may be considered postconsumer material if it is later used in a process other than the original manufacturing and fabrication process.

(3) Postconsumer material does not include materials and by-products generated from, and commonly reused within, an original manufacturing and fabrication process.

(r) "Product Associated Rigid Plastic Packaging Container" means a brand-specific rigid plastic packaging container that may have one or more sizes, shapes or designs and that is used in conjunction with a particular generic product line. A product associated rigid plastic packaging container holds a brand-specific product such as Brand "X" liquid hand soap or Brand "Y" automotive oil.

(s) "Product Line" means a family of related products. Products within a line may be: 1) the same type of product, 2) sold to the same type of customer, and/or 3) sold through similar outlets. A product line may include more than one container line.

(t) "Product Manufacturer" means any person, partnership, association, corporation or any other entity that, through its own action or through contract or control, is primarily responsible for causing a product to be produced that is held inside of a rigid plastic packaging container and sold or offered for sale in California.

(1) The Department shall consider the following factors in identifying a product manufacturer:

(A) The ownership of the brand name of the product in the rigid plastic packaging container;

(B) Primary control or influence over the design of the product in the rigid plastic packaging container; and

(C) Primary control or influence over the design specifications of the rigid plastic packaging container.

(2) Any entity that has a legally recognized corporate relationship (i.e., parent/subsidiary

or affiliate relationship) with a product manufacturer shall be allowed to assume the responsibilities of the product manufacturer as they relate to the requirements of this Article.

(u) "Product Sub-Line" means a group of related products within a product line. Product sub-lines may vary from one another due to factors such as container size, fragrance, or level of concentration. A product sub-line may include more than one container line.

(v) "Recycled" means a product or material that has been diverted from disposal and has been reused in the production of another product.

(w) "Recycling Rate" means the proportion (as measured by weight, volume or number) of one of the following types of containers sold or offered for sale in California and being recycled in a given calendar year:

(1) Particular type rigid plastic packaging containers.

(2) Product-associated rigid plastic packaging containers.

(3) Single resin specific rigid plastic packaging containers as defined in Public Resources Code Section 42301(i)(3).

(x) "Refillable Rigid Plastic Packaging Container" means a rigid plastic packaging container that is routinely returned to and refilled by the product manufacturer or its agent at least five times to replenish the contents of the original rigid plastic packaging container.

(y) "Replacement Product" means a product that is sold by a product manufacturer with the intent to replenish the contents of the original rigid plastic packaging container sold by that same product manufacturer.

(z) "Reusable Rigid Plastic Packaging Container" means a rigid plastic packaging container that is routinely reused at least five times where the reuse is to hold a replacement product. A reusable rigid plastic packaging container does not refer to a container that is intended to be used or may be used to permanently hold the original product sold in that container.

(aa) "Rigid Plastic Packaging Container (RPPC)" means any plastic packaging container having a relatively inflexible finite shape or form, with a minimum capacity of eight fluid ounces or its equivalent volume and a maximum capacity of five fluid gallons or its equivalent volume, that is capable of maintaining its shape while holding other products, including, but not limited to, bottles, cartons, and other receptacles, for sale or distribution in California.

(1) Rigid plastic packaging containers are capable of at least one closure (including but not limited to closure occurring during the production or manufacturing process), are sold holding a product, and are composed entirely of plastic except that rigid plastic packaging containers may have:

(A) Caps, lids, labels, handles, hinges, and other incidental packaging elements made of non-plastic material; and

(B) Additives such as pigments, colorants, fillers, and stabilizers that are part of the plastic polymer compound.

(2) Plastic caps, lids, handles, and hinges may be included as part of a rigid plastic packaging container at a product manufacturer's discretion.

(3) A plastic packaging container shall be considered to have a "relatively inflexible or finite shape or form" if:

(A) It has essentially the same shape empty as full. A plastic packaging container may be considered to have the same shape empty as full even if it is designed to be folded or collapsed into a more compact form when not holding a product, such as, but not limited to, collapsible acetate boxes or tubes; and

(B) It is not flexible plastic packaging composed entirely of film plastic as defined by the American Society for Testing and Materials (ASTM) D6988.8 Guidelines for film plastic. Examples include, but are not limited to, grocery and merchandise carryout bags, pouches, or bubble, shrink, or stretch wrap.

(4) The capacity of a rigid plastic packaging container shall be determined as follows:

(A) For those containers measured in liquid or fluid volume, such as fluid ounce, gallon, milliliter, or liter, the product manufacturer may use either the labeled fluid volume or the equivalent volume. The metric equivalent for the following U.S. liquid measures is as follows: eight (8) fluid ounces is equivalent to 236.5882365 milliliters, and five (5) gallons is equivalent to 18.92705892 liters.

(B) Containers for products which are labeled and sold by weight or an item count must be measured for their equivalent volume.

(ab) "Signature" or "Signed" means either of the following:

(1) An original handwritten signature; or

(2) An electronic signature. An electronic signature includes an electronic sound, symbol, or process attached to or logically associated with an electronic record, executed or adopted by a party with the intent to represent an original handwritten signature. An electronic signature:

(A) Shall consist of a unique username and password or other security measures as required by the Department;

(B) May not be denied legal effect, validity, or enforceability solely on the ground that it is electronic; and

(C) Shall be binding on all persons and for all purposes under the law, as if the signature had been handwritten on an equivalent paper document.

(ac) "Similar Rigid Plastic Packaging Containers" means rigid plastic packaging containers that are alike in material type, shape, and volume.

(ad) "Single Resin Type" means made up of only one of the types of plastic resin outlined in Public Resources Code Section 18015.

(ae) "Sold or Offered for Sale" means direct sales, retail sales, and remote sales such as through distributors, wholesalers and the internet.

(af) "Source Reduced Container" means:

(1) A rigid plastic packaging container whose container weight per unit or per number of product uses has been reduced by 10 percent when compared with one of the following:

(A) The rigid plastic packaging container used for the product by the product manufacturer as of January 1, 1995.

(B) The rigid plastic packaging container used for the product by the product manufacturer over the course of the product's first full year of commerce in California.

(C) The rigid plastic packaging container used in commerce during the same year for similar products in similar rigid plastic packaging containers by the product manufacturer or other product manufacturers that are held by "particular type rigid plastic packaging containers," as defined in this Article, whose containers have not been considered source reduced.

(2) A rigid plastic packaging container is not a source reduced container for the purposes of this Article if the reduction was achieved by any of the following:

(A) Substituting a different material type for a material that previously constituted the principle material of the container.

(B) Increasing a container's weight per unit or per number of product uses after January 1, 1991.

(C) Packaging changes that adversely affect the potential for the rigid plastic packaging container to be recycled or to be made of postconsumer material. The Department may review any information provided by the product manufacturer, as well as other available information, to determine if the packaging change adversely affects the potential for the rigid plastic packaging container to be recycled or to be made of postconsumer material.

(3) Any source reduction achieved by changing the rigid plastic packaging container to a non-rigid plastic container may be credited to other containers as part of the averaging method of compliance described in Section 17944(b).

(4) If a rigid plastic packaging container for a specific product is entirely eliminated and that product is sold in California without any packaging, the source reduction may be credited to other regulated containers used by the product manufacturer as part of the averaging method of compliance described in Section 17944(b).

(ag) "Successor Company" means the legal entity that is developed by a merger, sale, hostile takeover, or other acquisition process, thus replacing the prior legal entity.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 40170, 42300, 42301, 42310, 42330 and 42340, Public Resources Code.*

Section 17944. Container Requirements.

(a) On or after January 1, 1995, all rigid plastic packaging containers, except a rigid plastic packaging container that is exempt under Section 17946.5 of this Article, sold or offered for sale in California must meet one of the following criteria:

(1) Be made from at least 25 percent postconsumer material and remain in compliance with applicable state and federal regulations, including those adopted by the United States Food and Drug Administration. If it is technologically infeasible for a rigid plastic packaging container to meet this requirement, such a container must comply with another compliance option within this Section.

(2) Be recycled at a 45 percent recycling rate if a product-associated rigid plastic packaging container, particular-type rigid plastic packaging container, or a single resin type rigid plastic packaging container.

(3) Be a reusable rigid plastic packaging container or a refillable rigid plastic packaging container.

(4) Be a source reduced rigid plastic packaging container.

(5) Be a rigid plastic packaging container which contains floral preservative and is subsequently reused by the floral industry for at least two years. This compliance option is only available for rigid plastic packaging containers used by the floral industry in California. Similar rigid plastic packaging containers sold to nurseries, landscapers, retail stores, and other outlets that are not wholesale or retail flower sellers or growers do not qualify for this compliance option.

(b) A product manufacturer may achieve compliance based on averaging. Averages may be calculated using either data specific to rigid plastic packaging containers sold and/or recycled in California or data on rigid plastic packaging containers sold and/or recycled nationwide. Averages shall be calculated for postconsumer material using the formula in Section 17945.5(b)(2), for source reduction using the formulas in Section 17945.5(d)(4), for reuse using the formula in Section 17945.5(e)(2), and for refill using the formula in Section 17945.5(f)(2). Averages may be based on the product manufacturer's entire product line or separated into product sub-lines. If averages are

used to achieve compliance, all rigid plastic packaging containers must be accounted for in the calculation or must comply through another compliance option.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42301, 42310, 42310.3, 42326, 42330 and 42340, Public Resources Code.*

Section 17944.1. Alternative Container Compliance Method.

(a) Notwithstanding the requirements of Section 17944, a product manufacturer shall be in compliance with the requirements of this Article if it demonstrates through its own actions, or the actions of another company under the same corporate ownership, that one of the following actions was taken during the same measurement period:

(1) The product manufacturer, or another company under the same corporate ownership, consumed postconsumer material generated in California in the manufacture of a rigid plastic packaging container subject to the requirements of Public Resources Code Section 42310, or a rigid plastic packaging container or other plastic products or plastic packaging that is not subject to that Section and that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in Public Resources Code Section 42310(a).

(2) The product manufacturer arranged by contractual agreement with any company under the same corporate ownership for the purchase and consumption of postconsumer material generated in California and exported to another state for the manufacture of rigid plastic packaging containers subject to Public Resources Code Section 42310, or a rigid plastic packaging container or other plastic product or plastic packaging that is not subject to Public Resources Code Section 42310 that is equivalent to, or exceeds the postconsumer material that the rigid plastic packaging container is otherwise required to contain, as specified in Public Resources Code Section 42310(a).

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Section 42310.3, Public Resources Code.*

Section 17944.2. How Will Waivers Be Granted? [Repealed]

Section 17944.5. Exempt Rigid Plastic Packaging Containers. [Repealed]

Section 17945. Who Must Comply With These Regulations? [Repealed]

Section 17945.1. Pre-Certification Process.

(a) Identification of Companies That May Be Subject to Certification.

Upon the discovery of a product manufacturer that has been newly identified as selling or offering for sale products held in rigid plastic packaging containers into California, the Department shall notify the product manufacturer that it appears to be subject to the requirements of Section 17944 of this Article, and has been added to the group of companies which may be required to certify compliance with this Article. Within 90

calendar days of notification from the Department, the product manufacturer shall submit the following information:

- (1) The designated contact's name and title;
- (2) Contact phone number(s), fax number(s) and e-mail address(es);
- (3) Mailing address(es) and web address (if available); and
- (4) If applicable, any information the product manufacturer believes will demonstrate that the product manufacturer does not sell its product(s) within rigid plastic packaging containers in California, as defined in Public Resources Code Section 42301(f), and thus is not subject to this Article.

(b) Pre-Certification Notice.

(1) At least one calendar year before the start of a measurement period, the Department shall select from the group of known product manufacturers a subgroup of companies that may be required to certify compliance for that measurement period. The Department shall notify the selected product manufacturers of this determination in writing by January 31 of the calendar year prior to the start of the measurement period.

(2) Within 90 calendar days of receipt of a pre-certification notice per subsection (b)(1) of this Section, a product manufacturer may seek an advisory opinion from the Department pursuant to Section 17948.2.

(3) Within 90 calendar days of receipt of a pre-certification notice per subsection (b)(1) of this Section, the product manufacturer shall submit the contact information listed in subsection (a) of this Section.

(c) Selection of Companies to Certify Compliance.

The Department may select product manufacturers to certify compliance for a measurement period based on the following hierarchy:

(1) A selection of product manufacturers that have previously been selected for certification and have not yet been found to be in compliance with this Article;

(2) A random selection of product manufacturers that have not yet been selected to certify compliance with this Article;

(3) A random selection of product manufacturers that have previously been selected for certification and have been found to be in compliance with this Article.

(d) Certification Notice.

(1) The Department shall select from the companies previously notified per subsection (b)(1) of this Section the subgroup that will be required to certify compliance for that

measurement period.

(2) The Department shall notify the product manufacturers selected for certification by March 31 of the measurement period.

(3) Within 90 calendar days of receipt of a certification notice per subsection (d)(2) of this Section, a product manufacturer may seek an advisory opinion from the Department pursuant to Section 17948.2 for any containers it has introduced since receipt of the pre-certification notice and any request it made per subsection (b)(2) of this Section.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Section 42325, Public Resources Code.*

Section 17945.2. Compliance Certifications.

(a) Product manufacturers, upon written notification from the Department, are required to certify to the Department that all of the rigid plastic packaging containers holding their products sold or offered for sale in California comply with the rigid plastic packaging container requirements, pursuant to Public Resources Code Section 42310 or 42310.3. Product manufacturers shall submit the information described in Section 17945.3 in their certifications.

(b) Container manufacturers' certifications provided to product manufacturers shall include the information described in Section 17945.4.

(c) A product manufacturer's completed certification, including any applicable container manufacturer certifications, must be postmarked or sent electronically no later than April 1 of the calendar year immediately following the measurement period.

(d) Prior to the end of the measurement period, a product manufacturer may request an extension for submittal of its certification of up to 30 calendar days for cause. An extension may be granted by the Department only if the product manufacturer provides documentary evidence to justify an extension based on criteria such as corporate acquisitions, corporate reorganizations, difficulty obtaining container information, or catastrophic acts of God, or other criteria deemed acceptable upon the Department's evaluation.

(e) If the Department receives a certification that, upon review, does not include all of the information required by this Article, the Department will notify the product manufacturer and state what additional information or documentation is required. The product manufacturer will then have 30 calendar days after receipt of the notice to provide the required information or documentation. One 30-calendar day extension may be granted for cause by the Department upon request.

(f) At any time, the Department may request information from a product manufacturer outside of any notice of incomplete certification. In such cases, the Department shall mail a written request, and the product manufacturer shall have 60 calendar days following the date of receipt of the request to supply the information.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42310.3, 42325, and 42340, Public Resources Code.*

Section 17945.3. Product Manufacturer Certification Information.

(a) When notified by the Department to certify compliance, a product manufacturer shall include in its certification the information listed in subsections (b) through (d), and if applicable, (e), of this Section.

(b) General Product Manufacturer Information

(1) The product manufacturer's name, mailing address, web address (if available), e-mail and telephone number(s), and the name and title of the person responsible for supplying the required information.;

(2) A statement of product manufacturer compliance including whether the product manufacturer sold or offered for sale products held in rigid plastic packaging containers into California, and whether some or all of the products were approved for a waiver pursuant to Section 17946, and whether some or all of the containers qualified for an exemption pursuant to Section 17946.5.

(3) If the product manufacturer is a corporation, the certification must be signed under penalty of perjury by the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer, a general manager, or other such person authorized by the corporation to accept service of process. If the product manufacturer is a partnership or sole proprietorship, the certification must be signed by a general partner or the sole proprietor. The certification shall include the following statement, the title of the signatory and the date of signature.

"I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete."

(c) Container Information

For each container line (whether or not it was included in a prior certification cycle)

(1) A description of the type of each rigid plastic packaging container (i.e., jar, bottle, clamshell, etc.).

(2) The associated product(s) or advertised brand name(s).

(3) The volume or equivalent capacity of each rigid plastic packaging container.

(A) The capacity or size must be expressed in the same unit of volume that is used on the container label; and

(B) For products that are sold based on weight or a numeric count, the size should be

reported on an equivalent volume basis.

- (4) The weight, in grams, of each individual rigid plastic packaging container.
- (5) The plastic resin type(s) of each rigid plastic packaging container.
- (6) The total quantity of rigid plastic packaging containers sold during the measurement period. This data should include:
 - (A) Direct sales by the product manufacturer;
 - (B) Sales through distributors, franchises, dealers, and agents;
 - (C) All mail-order and Internet sales; and
 - (D) A statement as to whether the data is based on sales in California or nationally.
- (7) The associated container manufacturer and a copy of any container manufacturer certification(s) and information pursuant to Section 17945.4. The product manufacturer is responsible for ensuring that its report is consistent with any container manufacturer certification obtained.

(d) Product Manufacturer Certification Requirements for Each Compliance Option

In addition to the information in subsection (c) of this Section, a product manufacturer shall submit the following information specific to the container compliance option(s) claimed:

(1) Postconsumer Material Content Compliance

For rigid plastic packaging containers for which compliance is claimed pursuant to Section 17944(a)(1) through the use of postconsumer material in the containers:

- (A) The weight, in grams, of postconsumer material in each of the rigid plastic packaging container(s) for which compliance is claimed; and
- (B) The percentage of postconsumer material in each of the rigid plastic packaging container(s) as calculated using the formula(s) in Section 17945.5(b).

(2) Source Reduction – Reduced Container Weight Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(4) through a reduction in container weight:

- (A) The weight, in grams, of each rigid plastic packaging container prior to source reduction;
- (B) The percentage each rigid plastic packaging container was source reduced for that product as calculated using the applicable formula(s) in Section 17945.5(d); and

(C) The date (e.g., month/year) of the source reduction.

(3) Source Reduction – Product Concentration Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(4) through a concentration of product:

(A) The number of product uses per unit before and after the product concentration, and the methodology used to calculate this change;

(B) The percentage the product was source reduced as calculated using the applicable formula in Section 17945.5(d); and

(C) The date (e.g., month/year) of the source reduction.

(4) Source Reduction – Product Concentration/Reduced Container Weight Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(4) through a combination of concentrating the product and reducing the weight of the rigid plastic packaging container that holds the product:

(A) The weight, in grams, of each rigid plastic packaging container prior to source reduction;

(B) The number of product uses per unit before and after the product concentration, and the methodology used to calculate this change;

(C) The weight, in grams, per unit of product use for each rigid plastic packaging container before and after source reduction;

(D) The percentage by which each rigid plastic packaging container was source reduced as calculated using the applicable formula(s) in Section 17945.5(d); and

(E) The date (e.g., month/year) of the source reduction.

(5) Source Reduction – Comparison to Similar Products Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(4) through a comparison to similar products in similar rigid plastic packaging containers:

(A) The advertised brand name(s) of the product(s) in the similar rigid plastic packaging container(s), and the name(s) of the primary product manufacturer, distributor, or importer on the label(s) of the similar rigid plastic packaging container(s);

(B) The weight, in grams, and the volume of each similar rigid plastic packaging container; and

(C) Any physical samples and/or photograph(s) of the similar rigid plastic packaging

container(s) and label(s) which clearly show(s) the name(s) of the product(s), if requested by the Department to verify compliance.

(6) Reusable Rigid Plastic Packaging Container Compliance

This option will demonstrate compliance for the original rigid plastic packaging containers only. The replacement product, if packaged in a rigid plastic packaging container, must comply under another compliance option. For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(3) through reuse of the container:

(A) The number of original plastic packaging containers and of replacement packages sold during the measurement period;

(B) The volume of each original rigid plastic packaging container and each replacement package;

(C) The average number of times the rigid plastic packaging container was reused during the measurement period as calculated using the applicable formula in Section 17945.5(e); and

(D) If not using the calendar year of the certification, a statement of the 12-month period that was used to determine the number of times the identified rigid plastic packaging containers were reused, and a description of how and why that measurement period was selected.

(7) Refillable Rigid Plastic Packaging Container Compliance

For containers where compliance is claimed pursuant to Section 17944(a)(3) through the refilling of the original rigid plastic packaging container by the product manufacturer:

(A) The number of refills of the rigid plastic packaging containers by the product manufacturer during the measurement period;

(B) The average number of times the rigid plastic packaging container was refilled within the measurement period as calculated using the applicable formula in Section 17945.5(f); and

(C) If not using the calendar year of the certification, a statement of the 12-month period that was used to determine the number of times that the identified rigid plastic packaging containers were refilled and a description of how and why that measurement period was selected.

(8) Particular Type, Product Associated, or Single Resin Type Rigid Plastic Packaging Container Recycling Rate Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(2) through recycling of the particular type, product associated, or single resin

type rigid plastic packaging container:

(A) Approval of Recycling Rate Methodology:

Within 90 calendar days of receipt of a Certification Notice pursuant to Section 17945.1(d), the product manufacturer shall submit a written request to the Department presenting its proposed particular type, product associated, or resin-specific recycling rate methodology. This methodology shall explain in detail how the figures will be derived and obtained.

A product manufacturer using this recycling rate compliance option may designate any person or entity to design the methodology, perform the studies, and submit supporting documentation to the Department on its behalf.

The Department will review the proposed methodology and approve or disapprove it within 90 calendar days of receipt. If disapproved, the product manufacturer may resubmit a revised methodology for review as the Department must approve of the methodology prior to its use by a product manufacturer for determining compliance.

Once a methodology has been approved by the Department, that methodology shall be used to determine the rates submitted as part of a compliance certification. If the approved methodology is not used and the product manufacturer selects this compliance option, the Department may find the product manufacturer to be out of compliance. The methodology remains valid to determine compliance in future years. Authorization for modifying a methodology shall be sought using the same method listed in Section 17945.3(d)(8)(A)1.

(B) Compliance Data:

The product manufacturer shall submit objective, scientific evidence of the rigid plastic packaging container's comparable recyclability, recycled content, recycling rate, regulated status, impact on California's market place, and ability to be made of postconsumer material, including:

The recycling rate, expressed as a percentage, for the particular type, product associated, or resin specific rigid plastic packaging container(s) sold in California;

The number of particular type, product associated, or resin specific rigid plastic packaging containers collected, recycled, or diverted from disposal in California for recycling;

The Department-approved methodology used to determine the recycling rate, and a detailed explanation of the methodology used to determine the sales rate; and

Any other information that the product manufacturer believes is necessary to substantiate its compliance claim.

(9) Floral Industry Compliance

For rigid plastic packaging containers where compliance is claimed pursuant to Section 17944(a)(5) through the reuse of containers by the floral industry a product manufacturer shall submit to the Department:

(A) Approval of Methodology:

Within 90 calendar days of receipt of a Certification Notice pursuant to Section 17945.1(d), a written request demonstrating how each rigid plastic packaging container will meet the two-year reuse criteria, including the proposed methodology used to determine the following:

The number of rigid plastic packaging containers sold to the floral industry in California;

The total number of rigid plastic packaging containers sold in California; and

The average reuse (in years) of each rigid plastic packaging container purchased by the floral industry in California.

The Department will review the methodology and approve or disapprove it within 90 calendar days of receipt. If disapproved, the product manufacturer may resubmit a revised methodology for review as the Department must approve of the methodology prior to its use by a product manufacturer for determining compliance.

Once a methodology has been approved by the Department, that methodology shall be used to determine the reuse submitted as part of a compliance certification. If the approved methodology is not used and the product manufacturer selects this compliance option, the Department may find the product manufacturer to be out of compliance. The methodology remains valid to determine compliance in future years. Authorization for modifying a methodology shall be sought using the same method listed in Section 17945.3(d)(9)(A)1.

(B) Compliance Data:

The number of times each rigid plastic packaging container is reused by the floral industry in California;

The number of rigid plastic packaging containers sold to the floral industry in California;

The Department-approved methodology used to determine the reuse; and

Any other information that the product manufacturer believes is necessary to substantiate its compliance claim.

(e) Alternative Container Compliance Method Information

(1) A product manufacturer claiming compliance pursuant to Section 17944.1(a)(1) or (2), shall submit to the Department the following information:

(A) The number and weight, in grams, of each other plastic product or plastic package sold during the measurement period;

(B) The weight, in grams, of postconsumer material in each rigid plastic packaging container and each other plastic product or plastic package;

(C) The percentage of postconsumer material used in rigid plastic packaging containers or other plastic products or plastic packaging, as calculated using the formula in Section 17945.5(c);

(D) The total weight, in grams, of California postconsumer material purchased and used in the manufacture of rigid plastic packaging containers subject to this Article or of rigid plastic packaging containers or other plastic products or plastic packaging not subject to this Article;

(E) Name(s), contact person(s), address(es), e-mail(s) and phone number(s) of the supplier(s) of the California postconsumer material;

(F) If the postconsumer material reported per subsection (D) of this Section includes such material as defined in Section 17943(q)(1) and (2), additional documentation including, at a minimum, the following:

Contact information for the supplier of the plastic(s) (name, address, phone number, e-mail).

Total weight, in grams, of the plastic received.

Date of receipt of the plastic.

Description of the material being claimed as postconsumer. This description shall include, but is not limited to:

The type of plastic resin.

The form in which the material was received (baled, flaked, etc.).

A description of the plastic material, such as product bar codes, Stock Keeping Unit (SKU), or other information that verifies that the plastic was made up of obsolete or unsold rigid plastic packaging containers and/or rejected finished plastic packaging.

(2) A product manufacturer claiming compliance based on the consumption of postconsumer material through contractual arrangement, as specified in Section 17944.1 (a)(2), shall submit to the Department the following additional information:

(A) If different from the amount reported per subsection (e)(1)(D) of this Section, the total weight, in grams, of California postconsumer material purchased and exported to another state during the measurement period for the manufacture of rigid plastic packaging containers or other plastic products or plastic packaging;

(B) The names of contractor(s), contact person(s), address(es), e-mail(s), phone number(s), and a copy of the contractual agreement(s) for the purchase and consumption of postconsumer material generated in California to be exported to another state for the manufacture of rigid plastic packaging containers or other plastic products or plastic packaging;

(C) The name(s), contact person(s), address(es), e-mail(s) and phone number(s) of the manufacturer(s) the California postconsumer material was exported to; and

(D) Documentation from the contracted product manufacturer that the California postconsumer material was used in the manufacture of rigid plastic packaging containers or other plastic products or plastic packaging during the measurement period.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42310.3, 42320, and 42325, Public Resources Code.*

Section 17945.4. Container Manufacturer Certification Information.

(a) Container manufacturers shall provide to the product manufacturers, at a minimum, the following information:

(1) The container manufacturer's name, mailing address, web address (if available), e-mail and telephone number, and the name and title of the person responsible for supplying the required information;

(2) The name, address, e-mail and telephone number of the product manufacturer at whose request the container manufacturer is completing the certification and the name and title of the person representing the product manufacturer that requested completion of a container manufacturer certification;

(3) To document postconsumer material content, a statement of the following:

(A) The type (i.e., jar, bottle, clamshell, etc.) and volume (or equivalent capacity) of each rigid plastic packaging container;

(B) The total weight, in grams, of each rigid plastic packaging container;

(C) The weight, in grams, of postconsumer material used to manufacture each specified rigid plastic packaging container;

(D) The percentage of postconsumer material used in each rigid plastic packaging container; and

(E) If the postconsumer material used includes such material as defined in Section 17943(q)(1) and (2), the documentation shall contain, at a minimum, the following:

Contact information for the supplier(s) of the plastic(s) (name, address, phone number, e-mail).

Total weight, in grams, of the plastic(s) received.

Date(s) of receipt of the plastic(s).

Description of the material being claimed as postconsumer, including but not limited to:

The type of plastic resin.

The form in which the material was received (e.g., baled, flaked).

A description of the plastic material, such as product bar codes, Stock Keeping Unit (SKU), or other information that verifies that the plastic was made up of obsolete or unsold rigid plastic packaging containers and/or rejected finished plastic packaging.

(4) To document source reduction that was achieved by a reduction in rigid plastic packaging container weight, a statement of the following:

(A) The type and volume of each rigid plastic packaging container;

(B) The weight in grams of each type and volume of rigid plastic packaging container before and after source reduction occurred; and

(C) The date (e.g., month/year) of the source reduction.

(b) If the container manufacturer is a corporation, the certification must be signed under penalty of perjury by the president or other head of the corporation, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or other such person authorized by the corporation to accept service of process. If the container manufacturer is a partnership or sole proprietorship, the certification must be signed by a general partner or the sole proprietor. The certification shall include the following statement, the title of the signatory and the date of signature.

“I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete.”

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42320, and 42325, Public Resources Code.*

Section 17945.5. Compliance Calculation and Formulas.

(a) The product manufacturer shall use the following formulas to calculate its claim of compliance. The calculation shall be carried out to two decimal places. Unless otherwise noted, all weights should be in grams and all calculations should be by container line.

(b) Postconsumer Material Content Compliance

For rigid plastic packaging containers for which compliance is claimed through the use

of postconsumer material (PCM) content pursuant to Section 17944(a)(1), use the following formulas

(1) For a single rigid plastic packaging container line:

$$\text{Percent PCM} = [\text{WPCM}/\text{WRPPC}] \times 100$$

where:

WPCM = the weight of postconsumer material in each rigid plastic packaging container

WRPPC = the total weight of each rigid plastic packaging container

(2) For averaging multiple rigid plastic packaging container lines:

$$[\sum(\text{WPCM})_n / \sum(\text{WRPPC})_n] \times 100$$

where:

WPCM = the weight of postconsumer material in each rigid plastic packaging container

WRPPC = the total weight of each rigid plastic packaging container

n = the number of container lines being averaged

(3) To comply under this option, the postconsumer material content must be equal to or greater than 25.00 percent.

(c) Alternative Container Compliance Method

For compliance claimed through use of California postconsumer material pursuant to Section 17944.1, use the following formula:

$$(\sum(\text{WPCM} \times \text{NRPPC})_n + \sum(\text{WOPP} \times \text{NOPP})_n) / (\text{WRPPC}) \times 100$$

where:

WPCM = the weight of postconsumer material in each rigid plastic packaging container

NRPPC = the number of rigid plastic packaging containers

WOPP = the weight of postconsumer material in each other (i.e., non-RPPC) plastic packaging container or plastic product

NOPP = the number of other (non-RPPC) plastic packaging containers or units of plastic products

n = the number of container (or other plastic packaging or plastic product) lines being averaged

WRPPC = the total weight of the rigid plastic packaging containers in the rigid plastic packaging container lines

To comply under this option, the postconsumer material content must be equal to or greater than 25.00 percent.

(d) Source Reduction Compliance

For rigid plastic packaging containers for which compliance is claimed through source

reduction pursuant to Section 17944(a)(4), use the following formulas:

(1) For a single rigid plastic packaging container line where the container weight has been reduced:

$$\text{Percent Source Reduced} = \frac{[WN - W_sWN]}{WN} \times 100$$

where:

WN = the weight of the non-source reduced rigid plastic packaging container

W_s = the weight of the source reduced rigid plastic packaging container

(2) For a single rigid plastic packaging container line where the product has been concentrated:

$$\text{Percent Source Reduced} = \frac{[USEN - USE_sUSEN]}{USEN} \times 100$$

where:

USEN = units of use of the non-source reduced product

USE_s = units of use of the source reduced (concentrated) product

(3) For a single rigid plastic packaging container line with a combination of concentrating the product and reducing the weight of the rigid plastic packaging container that holds the product:

$$\text{Percent Source Reduced} = \frac{[(WNUSEN/) - (WSUSE_s/)]}{(WNUSEN/)} \times 100$$

where:

WN = the weight of the non-source reduced rigid plastic packaging container

USEN = units of use of the non-source reduced rigid plastic packaging container

W_s = the weight of the source reduced rigid plastic packaging container

USE_s = units of use of the source reduced rigid plastic packaging container

(4) For averaging source reduction over multiple rigid plastic packaging container lines with either container weight reduction and/or product concentration:

$$\frac{[\sum[(WNUSEN/) - (WSUSE_s/)]]}{n \sum(WNUSEN/)} \times 100$$

where:

WN = the weight of the non-source reduced rigid plastic packaging container

USEN = units of use of the non-source reduced rigid plastic packaging container

W_s = the weight of the source reduced rigid plastic packaging container

USE_s = units of use of the source reduced rigid plastic packaging container

n = the number of container lines being averaged

(5) To comply under this option, the Percent Source Reduced must be equal to or greater than 10.00 percent.

(e) Reusable Rigid Plastic Packaging Container Compliance

For rigid plastic packaging containers for which compliance is claimed through reuse of the containers pursuant to Section 17944(a)(3), use the following formulas for the given measurement period:

(1) For a single rigid plastic packaging container line:

$$\text{Average Reuse Per Rigid Plastic Packaging Container} = (R \times VRP \times VP)$$

where:

R = the number of replacement product packages sold during the period

P = the number of original rigid plastic packaging containers sold during the period

VR = the volume of the replacement product package

VP = the volume of the original rigid plastic packaging container

(2) For averaging multiple rigid plastic packaging container lines:

$$\text{Average Reuse Per Rigid Plastic Packaging Container} = \frac{\sum(R \times VR)}{n} \frac{\sum(P \times VP)}{n}$$

where:

R = the number of replacement product packages sold during the period

P = the number of original rigid plastic packaging containers sold during the period

VR = the volume of the replacement product package

VP = the volume of the original rigid plastic packaging container

n = the number of container lines being averaged

(3) If the replacement product is a different concentration than the original product, the product manufacturer must provide the appropriate conversion factor. The conversion factor shall explain the number of uses per weight unit or volume unit of product for both the original product and for the replacement product.

(4) To comply under this option, the Average Reuse Per Container must be equal to or greater than 5.00 reuses.

(f) Refillable Rigid Plastic Packaging Container Compliance

For rigid plastic packaging containers for which compliance is claimed through the refilling of the container by the product manufacturer pursuant to Section 17944(a)(3), use the following formulas for the given measurement period:

(1) For a single rigid plastic packaging container line:

$$\text{Average Refills Per Container} = FP$$

where:

F = the number of refills of rigid plastic packaging containers made by the product manufacturer during the period

P = the number of original rigid plastic packaging containers sold during the measurement period

(2) For averaging multiple rigid plastic packaging container lines:

$$\text{Average Refills Per Container} = \frac{\sum(F)n}{\sum(P)n}$$

where:

F = the number of refills of rigid plastic packaging containers made by the product manufacturer during the period

P = the number of original rigid plastic packaging containers sold during the measurement period

n = the number of container lines being averaged

(3) To comply under this option, the Average Refills Per Container must be equal to or greater than 5.00 refills.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42320 and 42325, Public Resources Code.*

Section 17946. Waivers.

(a) In accordance with Public Resources Code Section 42330(c), the Department shall grant a waiver from rigid plastic packaging container compliance under Section 17944 for a newly introduced product sold in California, upon petition by a product manufacturer pursuant to subsection (c) of this Section.

(b) Such waivers from compliance with Section 17944 shall be valid for 12 months from the date on which the newly introduced product is first sold or offered for sale in California.

(c) Petition for Waiver

To receive a waiver, a product manufacturer shall petition the Department as part of the compliance certification process. Within 90 calendar days of receipt of notice that it has been selected for certification (per Section 17945.1(d)), or by the end of the certification period for newly introduced containers not known within 90 calendar days of the notice, the product manufacturer shall submit to the Department a written petition that includes the following information:

(1) The newly introduced product for which the waiver is being requested;

(2) The name, mailing address, e-mail, and telephone number of the contact person to whom the Department shall direct future communications relating to the petition;

(3) Documentation and supporting evidence demonstrating the date the product was or will be first sold or offered for sale in California during the measurement period.

(4) Documentation demonstrating the product conforms to the “newly introduced product” definition;

(5) The documentation must be submitted under penalty of perjury, and include the following statement, the title of the signatory and the date of signature: "I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete."

(d) Upon receipt of a product manufacturer's petition for a waiver, the Department will review the petition and will grant or deny the petition in writing within 90 calendar days.

(e) The Department will grant a general waiver to all product manufacturers from compliance with the rigid plastic packaging container requirements, in accordance with Public Resources Code Section 42330(b)(1), if less than 60 percent of California's single family households have access to curbside collection programs which include beverage container recycling. It is not necessary to petition the Department for this waiver. The Department may use curbside collection data submitted as part of the beverage container recycling related requirements biannually to obtain the information necessary to determine whether this waiver should go into effect.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42325 and 42330, Public Resources Code.*

Section 17946.5. Exempt Rigid Plastic Packaging Containers

(a) Pursuant to Public Resources Code Section 42340, the following rigid plastic packaging containers are exempt from the requirements of this Article.

(1) Rigid plastic packaging containers produced in or out of California which are destined for shipment to other destinations outside the state and which remain with the products during that shipment. "Destined for shipment to other destinations outside the state" means that the sale of the rigid plastic packaging container to the final end user occurs outside California.

(2) Rigid plastic packaging containers that contain drugs, medical devices, cosmetics, food, medical food, or infant formula as defined in the federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.).

(3) Rigid plastic packaging containers that contain toxic or hazardous products regulated by the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(4) Rigid plastic packaging containers that are manufactured for use in the shipment of hazardous materials and are prohibited from being manufactured with used material by federal packaging material specifications and testing standards set forth in Section 178.509 and 178.522 of Title 49 of the Code of Federal Regulations, or are subject to testing standards set forth in Sections 178.600 to 178.609, inclusive, of Title 49 of the Code of Federal Regulations, or to which recommendations of the United Nations on the transport of dangerous goods are applicable.

(b) To claim an exemption, a product manufacturer, within 90 calendar days of receiving a certification notice pursuant to Section 17945.1(d), shall submit to the Department the following information:

(1) Photograph(s) of the rigid plastic packaging container(s) and label(s) which clearly show(s) the name(s) of the product(s) for which the exemption is being claimed;

(2) The basis for the exemption, which shall include specific citation to any applicable federal statutes, regulations, any applicable registration numbers, and supporting documentation needed to validate the exemption claim; and

(3) The name, mailing address, e-mail, and telephone number of the person to whom the Department shall direct future communication relating to the exemption.

The documentation must be submitted under penalty of perjury, and include the following statement, the title of the signatory and the date of the signature:

“I certify under penalty of perjury under the laws of the State of California that to the best of my knowledge and belief the foregoing information and all supporting data provided is accurate, true and complete.”

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42326 and 42340, Public Resources Code.*

Section 17947. Auditing.

(a) The Department, or its agent, may audit product manufacturer compliance certifications. The Department, or its agent, may ask for supporting documentation as described in Sections 17945.2 and 17945.3 of this Article.

(b) To obtain documentation, the Department or its agent shall send a written request. The recipient of a request for documentation shall have 60 calendar days following the confirmed date of delivery of the request to supply the documentation.

(c) Failure to provide the requested information in accordance with this Article may result in violations and penalties as set forth in Section 17949 of this Article.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42320 and 42321, Public Resources Code.*

Section 17948. Proprietary, Confidential, or Trade Secret Information.

The public disclosure of records supplied to the Department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret shall be subject to the disclosure provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with Section 17041).

Authority cited: *Section 6253, Government Code. Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 6250 et seq., Government Code. Sections 40062 and 42323, Public Resources Code.*

Section 17948.1. Retention of Records.

(a) For all rigid plastic packaging container compliance options other than source reduction used by a product manufacturer, all documentation supporting any compliance claim shall be retained by the product manufacturer and available at the request of the Department for at least three (3) years following the end of the measurement period.

(b) For source reduction compliance claims, supporting documentation demonstrating the specifications of the original non-source reduced rigid plastic packaging container shall be retained by the product manufacturer and available at the request of the Department for any and all years the product manufacturer intends to claim compliance with this Article through source reduction for that specific rigid plastic packaging container and at least three (3) years thereafter.

(c) For all container manufacturer certifications, the supporting documentation shall be retained by the container manufacturer and available at the request of the product manufacturer for at least three (3) years following the end of the measurement period.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42320 and 42325, Public Resources Code.*

Section 17948.2. Advisory Opinions.

(a) A product manufacturer selected for pre-certification pursuant to Section 17945.1(b), or for certification pursuant to Section 17945.1(d)(3), may request the Director provide written advice with respect to the product manufacturer's compliance with this Article by submitting a written request to the Department's legal office.

(b) Written advice shall only be provided to product manufacturers that have been notified pursuant to Section 17945.1(b) that they may be required, or pursuant to Section 17945.1(d) that they will be required, to certify compliance with this Article.

(c) A request for written advice shall not be acted on by the Department unless it is submitted in writing to the Department's legal office within 90 calendar days of the product manufacturer's receipt of notification as described in subsection (b) of this Section and includes the following information:

(1) The name, title or position, phone number, e-mail, and mailing address of the representative of the product manufacturer whose compliance is in question; and

(2) All the facts material to the consideration of the question or questions presented provided in a clear and concise manner, including studies or physical examples where appropriate.

(d) If a written request for advice does not meet the requirements in subsections (a) through (c) of this Section, the Department shall notify the requestor of that fact in writing.

(e) The Director shall issue a written opinion within 90 calendar days of receiving a request that meets the requirements of this Section.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Section 42325, Public Resources Code.*

Section 17948.5. Letters of Non-Objection. [Repealed]

Section 17949. Violations and Penalties

(a) Pursuant to Public Resources Code Section 42321, within 30 calendar days of the Department determining that an entity provided the Department with a false or misleading compliance certification, the Department may refer that entity to the Attorney General for prosecution for fraud.

(b) A container manufacturer that submits to a product manufacturer a certification with false or misleading information shall be subject to the same penalties and fines that are imposed upon product manufacturers (see Violation 4 in subsection (d) of this Section). A product manufacturer is not subject to any fine or penalty for not complying as a result of the submittal of false or misleading information by a container manufacturer.

(c) Any violation of this Article is a public offense and is punishable by a fine not to exceed \$100,000. In addition, violators may be subject to a civil penalty not to exceed \$50,000 per violation. Total fines and penalties are not to exceed \$100,000 per annum (i.e., calendar year certification cycle) for each violator. On or before July 1st of each year, the Department shall publish a list setting forth any fines or penalties that have been levied against a violator of this Article in the preceding calendar year for failure to comply with the requirements of this Article.

(d) Penalties for specified violations of program requirements are as follows.

Table: Penalties for Violations

Violation	Description of Violation	Penalty
(1) CCR Section 17944; PRC Section 42310	Product manufacturer did not comply with rigid plastic packaging container requirements in accordance with Sections 17945.3 and 17945.5 of this Article. Penalty determined by degree of noncompliance.	\$5,000-\$50,000 See Section 17949(e).

Violation	Description of Violation	Penalty
(2) CCR Section 17945.2	Product manufacturer did not submit certification by due date.	\$1,000-\$50,000 See Section 17949(f).
(3) CCR Section 17945.2; 17945.3	Product manufacturer did not submit complete or accurate certification by due date. Degree of incompleteness or inaccuracies include, but are not limited to, misreporting exemptions, failure to account for all products, failure to account for subsidiaries and divisions, lack of container manufacturer's verification of number of containers sold or weight of containers, inconsistencies in information between product manufacturer and container manufacturer, lack of signatures, mathematical inaccuracies.	\$1,000-\$50,000 See Section 17949(g).
(4) CCR Section 17945.2; 17945.3; 17945.4; PRC Section 42321	Product manufacturer or container manufacturer submitted false or misleading information on certification.	Referral to Attorney General for prosecution for fraud within 30 calendar days of discovery by the Department; maximum fine, \$100,000.

(e) When product manufacturers do not comply with the rigid plastic packaging container requirements in Sections 17945.3 and 17945.5 (i.e., Violation 1 in the preceding table), the Department will calculate penalties using the data from the approved compliance certifications and the following formulas. The process gives credit for progress in meeting compliance options by container line (or averaged container lines), and the total penalty is based on a weighted average calculation of the product manufacturer's overall compliance.

(1) Postconsumer Material Content Compliance and Alternative Container Compliance Method Penalty Calculation.

For each rigid plastic packaging container line (or average of multiple container lines) claiming a postconsumer material compliance option per Section 17945.3(d)(1) or alternative container compliance method option per Section 17945.3(e):

$$\text{Penalty} = [\sum(\text{WRPPC} \times \text{NRPPC})n] \text{WPM} \times (50,000 - [\text{CC} \times \text{D}])$$

where:

WRPPC = the weight of each rigid plastic packaging container

NRPPC = the total number of rigid plastic packaging containers

n = the number of container lines in the compliance calculation

WPM = the total weight of rigid plastic packaging containers for all the product manufacturer's lines (calculated such as shown in the Sample Table below)

CC = the calculated compliance rate per the applicable formula in Section 17945.5(b) or (c)

D = 2,000 if the line's postconsumer material compliance value was at least 25 percent (i.e., in compliance) OR 1,800 if the value was less than 25 percent (i.e., out of compliance)

(2) Source Reduction Compliance Penalty Calculation.

For each rigid plastic packaging container line (or average of multiple container lines) claiming a source reduction compliance option per Section 17945.3(d)(2), (3), (4) or (5):

$$\text{Penalty} = (\sum[\text{WS} \times [\text{NS}]n] \text{WPM}) \times (50,000 - [(\text{CC} \times 2.5) \times \text{D}])$$

where:

WS = the weight of each source reduced rigid plastic packaging container

NS = the total number of source reduced rigid plastic packaging containers

n = the number of container lines in the compliance calculation

WPM = the total weight of rigid plastic packaging containers for all the product manufacturer's lines (calculated such as shown in the Sample Table below)

CC = the calculated compliance rate per the applicable formula in Section 17945.5(d)

2.5 = the factor used so that the penalties due will equal zero or less for lines in compliance

D = 2,000 if the line's source reduction compliance value was at least 10 percent (i.e., in compliance) OR 1,800 if the value was less than 10 percent (i.e., out of compliance)

(3) Reusable or Refillable Rigid Plastic Packaging Container Compliance Penalty Calculation.

For each rigid plastic packaging container line (or average of multiple container lines) claiming a reuse or refill compliance option per Section 17945.3(d)(6) or (7):

$$\text{Penalty} = \sum[\text{WP} \times \text{P}]n \text{WPM} \times (50,000 - [(\text{CC} \times 5) \times \text{D}])$$

where:

WP = the weight of each original rigid plastic packaging container sold

P = the number of original rigid plastic packaging containers sold

n = the number of container lines in the compliance calculation

WPM = the total weight of rigid plastic packaging containers for all the product manufacturer's lines (calculated such as shown in the Sample Table below)

CC = the calculated compliance rate per the applicable formula in Section 17945.5(e) or (f)

5 = the factor used so that the penalties due will equal zero or less for lines in compliance

D = 2,000 if the line's reuse or refill compliance value was at least 5 (i.e., in compliance)
OR 1,800 if the value was less than 5 (i.e., out of compliance)

(4) Recycling Rate Compliance Penalty Calculation.

For each rigid plastic packaging container line (or average of multiple container lines) claiming a recycling rate compliance option per Section 17945.3(d)(8):

$$\text{Penalty} = \sum([\text{WRPPC} \times \text{NNRPPC}]n \text{WPM}) \times (50,000 - [(\text{CC} \times 0.555556) \times D])$$

where:

WRPPC = the weight of each rigid plastic packaging container

NRPPC = the total number of rigid plastic packaging containers

n = the number of container lines in the compliance calculation

WPM = the total weight of rigid plastic packaging containers for all the product manufacturer's lines (calculated such as shown in the Sample Table below)

CC = the calculated compliance rate per the approved methodology per Section 17943.5(d)(8)

0.555556 = the factor used so that the penalties due will equal zero or less for lines in compliance

D = 2,000 if the line's recycling rate compliance value was at least 45 percent (i.e., in compliance) OR 1,800 if the value was less than 45 percent (i.e., out of compliance)

(5) Floral Industry Compliance Penalty Calculation.

For each rigid plastic packaging container line (or average of multiple container lines) claiming a floral industry compliance option per Section 17945.3(d)(9):

$$\text{Penalty} = (\sum[\text{WP} \times \text{P}]n \text{WPM}) \times (50,000 - [(\text{CC} \times 1.0416667) \times D])$$

where:

WP = the weight of each original rigid plastic packaging container sold

P = the number of original rigid plastic packaging containers sold

n = the number of container lines in the compliance calculation

WPM = the total weight of rigid plastic packaging containers for all the product manufacturer's lines (calculated such as shown in the Sample Table below)

CC = the calculated compliance rate, in months, per the approved methodology per Section 17943.5(d)(9)

1.0416667 = the factor used so that the penalties due will equal zero or less for lines in compliance (i.e., with reuse of at least 24 months)

D = 2,000 if the line's floral container compliance value was at least 24 months (i.e., in compliance) OR 1,800 if the value was less than 24 months (i.e., out of compliance)

(6) As shown in the sample table following, the Department will sum the weights of the product manufacturer's rigid plastic packaging containers for each line (and/or average of lines, when applicable) in order to calculate the weighted Violation 1 penalties due by line and in total. The "calculated compliance values" ("CC"s in the formulas above) are those submitted in the product manufacturer's certification and subsequently reviewed and approved by the Department. The "weighted penalties" by line are calculated using the formulas above. Where the "Total Penalty" is less than or equal to zero, no payment is due. (Note that this chart does not show the entire calculation, just the components identified above.)

Sample Table, (weighted penalties by line are calculated using above formulas)

Line	Compliance Option and Threshold (A)	Total number of RPPCs (B)	Weight of Individual RPPC (gms) (C)	Total RPPC Weight (BxC)(gms) (D)	Calculated Compliance Value (% or number) (E)	Weighted Penalty (\$) (F)
1	PCM (25%)	5,000,000	55	275,000,000	9.00%	\$443.77
2	Avg PCM (25%)	10,000,000	100	1,000,000,000	35.00%	-620.65
3	Source Red (10%)	55,000	75	4,125,000	10.00%	0
4	Reuse (5)	9,500	65	617,500	5	0
5	Refill (5)	6,300,000	100	630,000,000	3.6	529.37
Total			W _{PM} :	1,909,742,500	Total	\$352.49

(f) Certifications submitted late shall be assessed the following penalties:

Table: Penalties for late submittals

Days Late	Amount of Penalty
30-Jan	\$1,000
31-60	\$5,000
More than 60	Up to \$50,000 (considered nonresponsive)

(g) Certifications submitted incomplete or with inaccuracies shall be assessed penalties as follows:

(1) The amounts shall be based on the significance and degree of incompleteness and/or inaccuracy:

Table: Penalty amounts on significance of incompleteness and/or inaccuracy

Significance of Incompleteness and/or Inaccuracy	Major Degree of Incompleteness and/or Inaccuracy	Minor Degree of Incompleteness and/or Inaccuracy
Major	\$50,000 to \$35,000	\$34,000 to \$25,000
Moderate	\$24,999 to \$15,000	\$14,999 to \$10,000
Minor	\$9,999 to \$5,000	\$4,999 to \$1,000

(2) The level of a compliance certification’s incompleteness or inaccuracy shall be determined by the Department as follows:

(A) The degree will be “minor” or “major” depending on the amount of information missing or inaccurately stated as compared to the required content per Section 17945.3 and calculations per Section 17945.5; and

(B) The significance will be “minor,” “moderate,” or major” depending on the extent to which it affects the Department’s ability to determine the product manufacturer’s compliance.

(C) For example, if the Department cannot replicate the compliance calculations from the information provided, that would likely be of “major” significance and degree.

If compliance with most but not all of the product manufacturer’s containers are included, that would likely be of “moderate” significance and “major” degree. If the Department cannot determine the appropriateness of exemption claims or new product waivers that would likely be at least of “moderate” significance but “minor” degree. Missing or inaccurate company information would likely be of “minor” significance and “minor” degree.

(h) An Administrative Law Judge or the Department may consider, factors in modifying or reducing penalties for violations, such as, but not limited to evidence of the following:

(1) Impact on diversion or sustainable markets. in California;

(2) Size of the product manufacturer;

(3) Technological feasibility of compliance;

(4) Good faith efforts to comply with this Article, including history of previous compliance;

(5) The economic advantage of not complying with this Article.

Authority cited: *Sections 40502 and 42325, Public Resources Code.*

Reference: *Sections 42310, 42321 and 42322, Public Resources Code.*

Article 4. Recycled Content Newsprint

Section 17950. Regulatory Effect Of Questions And Answers.

For the purposes of this Article, both the question and answer in each Section have regulatory effect for implementation and enforcement. In addition to the regulations in this Article, statutory provisions contained in Sections 40502 and 42750 through 42791 of the Public Resources Code govern the Recycled-Content Newsprint Program.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42760, Public Resources Code.*

Section 17952. Purpose And Definitions.

(a) What is the purpose of these regulations?

These regulations explain what recycled-content newsprint requirements consumers and suppliers of newsprint must meet, and what procedures consumers and suppliers of newsprint must follow to report and certify recycled-content newsprint use. These regulations only pertain to newsprint use within the state of California.

(b) Definitions. Additional definitions may be found in Article 1, Chapter 15, Part 3 of Division 30 of the Public Resources Code.

(1) The *Board* is the California Integrated Waste Management Board.

(2) A *commercial printing and publishing operation* is a business located in California which uses newsprint in its printing or publishing operation. A commercial printer is further defined as a person whose business is classified in the Standard Industrial Classifications Code (SIC), Sections 2752, 2754, or 2759 which (3/20/92) are incorporated herein by reference. A *commercial publisher* is further defined as a person whose business is classified in the Standard Industrial Classifications Code (SIC), Sections 2711, 2721, 2731, or 2741, which are incorporated herein by reference.

(3) A *consumer of newsprint* means a person, as defined in Public Resources Code Section 40170, who uses newsprint in a commercial printing or in a commercial publishing operation.

Public Resources Code 40170 defines "person" as an individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

(4) *Delivery time* is the time between placement of a newsprint order and receipt of that order by a consumer of newsprint.

(5) *Grade* is a class or level of quality of paper or pulp which is ranked, or distinguished from other papers or pulps, on the basis of its use, appearance, quality, manufacturing history, raw materials, or a combination of these factors. Some grades have been officially identified and described and thus are ranked. Others are commonly recognized

but lack official definition.

(6) *Groundwood Pulp* means a material that is produced by taking debarked pulpwood, and forcing it against a revolving grindstone in the presence of water. The abrasive action of the stone reduces the wood to pulp. No chemicals are used in the production of groundwood except for possible bleaching.

(7) *Machine Finish* is any finish obtained on a paper machine. It may be that of a sheet of paper as it leaves the last drier or as it leaves the calendar stack. It may also be a dry or water finish. When used in conjunction with the name of a grade or type of paper, a machine finish has less than the maximum range of smoothness.

(8) *May* means a provision is permissive.

(9) A *metric ton* is 1000 kilograms. To convert pounds to metric tons, divide the number of pounds by 2,204.6.

(10) *Must* means a provision is mandatory.

(11) *Newsprint* means uncoated paper, whether supercalendered or machine finished, of the type generally used for, but is not limited to, the publication of newspapers, commercial advertising inserts, directories, or commercial advertising mailers, which is made primarily from mechanical woodpulp combined with some chemical woodpulp. "Newsprint" includes paper made from old (3/20/92) newspapers, which have been deinked, using the recycled pulp in lieu of virgin pulp. "Newsprint" includes all grades of paper sold as newsprint, supercalendered (SC) uncoated groundwood, or machine finished (MF) uncoated groundwood.

Grades of newsprint may include, but are not limited to:

(1) Newspaper Newsprint: 52.1 g/m² through 45.0 g/m²

(2) Lightweight Newsprint: 45.0 g/m² and lower

(3) Supercalendered and machine finished uncoated groundwood newsprint grades, as follows:

(a) Hi-Brite Newsprint: 48.8 g/m² and higher, brightness greater than 65%

(b) CPO Newsprint: 45.0 g/m² through 48.7 g/m², brightness greater than 65%

(c) Rotogravure Newsprint: 40.0 g/m² and higher, roughness less than 60 Sheffield.

(12) A *newsprint manufacturer* is in the business of making newsprint.

(13) A *newsprint supplier* is a broker, dealer, or seller of 5 metric tons or more of newsprint per year for use in California. Consumers who supply other consumers with newsprint are not considered suppliers for the purposes of this Article.

(14) *Quoted price* is defined as the actual purchase price for newsprint; i.e. the price

agreed upon by the buyer and the seller, verbally or in writing, which would consummate a sale or purchase.

(15) *Recycled Content Newsprint* means newsprint in which not less than 40 percent of its fiber consists of postconsumer wastepaper.

(16) A *Reporting Period* is from January 1 through December 31 of any given year.

(17) A *shipment* is defined as any quantity of newsprint, regardless of mode of transportation, which is accompanied by an invoice, bill of lading, shipment order, purchase order, or other evidence of shipment. A physical record for every shipment must be received by the company using the newsprint in its commercial printing or publishing operation. (3/20/92)

(18) *Supercalendered* is a finish obtained by passing paper between rolls of a supercalender under pressure. The resulting finish will vary depending upon the raw material used in the paper and the pressure exerted upon it, from that of the highest English finish to a highly glazed surface.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42750, 42753, 42754, 42755, 42756, Public Resources Code.*

Section 17954. Who Must Comply With These Regulations?

Who must comply with these regulations? You must comply with these regulations if you are:

(1) A person, as defined by Public Resources Code Section 40170, located in California, or

(2) A newsprint supplier who is a person, as defined above, who supplies newsprint which will be used in California, or

(3) A newsprint manufacturer who is a person, as defined above, who produces newsprint, which will be used in California.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42750, 42753, 42772, Public Resources Code.*

Section 17956. Who Must Certify?

These certification requirements apply to printers and publishers, located in California, who use newsprint in their operations. Printing or publishing operations located outside of California are not required to comply with these regulations.

(a) Printer/Publisher Certification of Recycled-Content Newsprint Use to the Board.

(1) If you own or operate a commercial printing establishment located in California, you must annually submit to the Board a completed form CIWMB 430 "Newsprint Consumer

Certification" (11/00), which is incorporated herein by reference. (See Appendix A.) This form is due to the Board on March 1 of each year.

(2) If you own or operate a commercial publishing operation located in California, which also owns or operates a commercial printing operation, you must annually submit a completed Newsprint Consumer Certification, form CIWMB 430 (11/00), to the Board.

(3) Any person owning or operating more than one commercial printing or commercial publishing operation in California may submit one certification for all of its operations. All of the information required by Section 17958 (b) of this Article must be itemized for each establishment included in the certification.

(4) If you own or operate a commercial printing operation located in California, but do not do any printing, you are not required to submit a Newsprint Consumer Certification, form CIWMB 430 (11/00) to the Board.

(b) Supplier Certification of Recycled-Content Newsprint to Consumers or other Suppliers.

If, at any time during a year, you supply recycled-content newsprint to commercial printers/publishers located in California, or to other suppliers who may in turn supply such establishments, you must comply with Section 17960 of this Article. Suppliers of newsprint are held accountable for certification according to Section 17960, regardless of their location.

(c) Manufacturer Certification of the Recycled-Content of its Newsprint to the Board.

If you are a person manufacturing recycled-content newsprint for use in California, you must submit a letter to the Board certifying the metric tons of postconsumer wastepaper and/or deinked pulp received or produced at each of your mills producing recycled-content newsprint for use in California during each reporting period. You must also certify to the Board the metric tons of recycled-content newsprint, by grade, which were produced at each of your mills that were shipped for use in California during each reporting period. This letter of certification will be due on March 1 of every year for each reporting period (January 1 through December 31).

(d) Manufacturer Certification of the Recycled-Content to Suppliers/Consumers.

If you are a person manufacturing recycled-content newsprint for use in California, you must certify that the newsprint you ship for use in California is recycled-content newsprint.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42753, 42772, 42773, 42774, and 42775, Public Resources Code.*

Section 17958. Newsprint Consumer Requirements.

(a) I am a consumer of newsprint. What must I do to comply with these regulations? If

you are a consumer of newsprint, to comply with these regulations you must:

- (1) Satisfy the minimum recycled-content newsprint use requirements in Table One below, and
- (2) Certify to the Board by March 1 of each year that you are meeting these requirements. The first certification is due to the Board by March 1, 1992 for 1991's use. Certification information is listed in subsection (b) of this Section.

Table 1: Recycled-Content Newsprint Use Requirements

On or After	Required Use
January 1, 1991	25%
January 1, 1994	30%
January 1, 1996	35%
January 1, 1998	40%
January 1, 2000	50%

(b) I am a consumer of newsprint located in California. What information must I send to the Board each year for my certification? By March 1 of each year, you must send the following information to the Board on the Board-supplied Newsprint Consumer Certification Form #430:

- (1) Your name, mailing address, physical address, and telephone number,
- (2) The total in metric tons of newsprint not containing forty (40) percent postconsumer fibers used during the preceding calendar years, and
- (3) The total in metric tons of recycled-content newsprint used during the preceding calendar year,

(c) I am a consumer of newsprint. What records must I keep to comply with these regulations? To comply with these regulations, consumers of newsprint must keep:

- (1) A copy of every shipment order, bill of lading, invoice, purchase order, or other evidence of shipment,
- (2) A copy of the annual Newsprint Consumer Certification Form #430, that you send to the Board, and
- (3) A copy of any supplier certification you have received.

(d) How long must consumers of newsprint keep the records required by these

regulations? You must keep the records for 3 years after the date of the certification and make them available to the Board upon request.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42760, 42770, and 42782, Public Resources Code.*

Section 17960. Newsprint Supplier Requirements

(a) I am a newsprint supplier. When I certify the metric tons of recycled-content newsprint in every shipment to a consumer or other supplier of newsprint, what information must I include? When you certify the metric tons of recycled-content newsprint in every shipment to a newsprint consumer or supplier, you must include:

- (1) Your name, mailing address, and telephone number,
- (2) The name and physical address of the consumer or supplier to whom you are sending the newsprint,
- (3) The name of the newsprint grade, and the date(s) of shipment,
- (4) Total in metric tons, by grade, of recycled-content newsprint shipped, and
- (5) Total in metric tons, by grade, of newsprint containing less than forty (40) percent postconsumer wastepaper shipped.
- (6) If a shipment contains no recycled-content newsprint, the supplier shall so certify.

(b) I am a newsprint supplier who has supplied consumers or other suppliers with recycled-content newsprint. What records must I keep to comply with these regulations? You must keep the following records for each shipment of newsprint you make to a consumer or other supplier of newsprint: (3/20/92)

- (1) The manufacturer's name, address, and mill of production for each grade of newsprint received in each shipment,
- (2) The name and mailing address of the person from whom you received each shipment prior to your supplying it to others,
- (3) The name and mailing address of the consumer or supplier to whom you shipped the newsprint,
- (4) The name of the newsprint grade(s) supplied in each shipment, and the dates of shipment,
- (5) Total, in metric tons, of each grade of newsprint containing less than forty (40) percent postconsumer wastepaper contained in each shipment,
- (6) Total, in metric tons, of each grade of recycled-content newsprint contained in each shipment, and

(7) Copies of any certifications you send to consumers of newsprint, or to other suppliers.

(c) As a newsprint supplier, how long must I keep the records required by these regulations? If you are a newsprint supplier, you must keep records for 3 years after the date of each certification and make them available to the Board upon request.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42772, 42780, Public Resources Code.*

Section 17962. Newsprint Manufacturer Requirements

(a) I manufacture recycled-content newsprint, which is used in California. What must I do to comply with these regulations? If you manufacture recycled-content newsprint, which is used in California, you must:

(1) Certify the metric tons of recycled-content newsprint contained in each shipment made to consumers or suppliers, by grade, for use in California. If a shipment contains no recycled-content newsprint, you shall so certify.

(2) Certify to the Board by March 1 of each year the metric tons of postconsumer waste paper and/or deinked pulp received or produced at each of your mills producing recycled-content newsprint for use in California during each reporting period.

(3) Certify to the Board by March 1 of each year the metric tons of recycled-content newsprint, by grade, which were produced at each of your mills, which were shipped for use in California, during each reporting period.

(b) As a manufacturer of recycled-content newsprint, what records must I keep to comply with these regulations? If you are a recycled-content newsprint manufacturer, you must keep copies of any certification you send to suppliers, consumers, or the Board.

(c) As a manufacturer of recycled-content newsprint, how long must I keep the records required by these regulations? You must keep the records for 3 years after the date of the certification and make them available to the Board upon request.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42772, 42780, Public Resources Code.*

Section 17964. Quality Standards.

(a) What quality standards does the recycled-content newsprint have to meet? The Board shall establish the comparable quality standards, which the recycled-content newsprint must meet.

(b) How will the Board set its comparable quality standards? In July of each year, the Board will survey newsprint manufacturers who annually sell more than 5,000 metric tons of recycled-content newsprint for use in California. The Board will request samples

from each of these manufacturers for each grade of recycled-content newsprint that they produce.

The Board will then conduct testing following the methods of the Technical Association of the Pulp and Paper Industry (TAPPI), and will establish the standards based on the results of the testing. The TAPPI Test Methods T414, T452, and T425, 1986, are incorporated herein by reference, and listed in Table Two below. (See Section (e) for additional information about the TAPPI methods)

Table 2: TAPPI Test Method

Specification	Test Method	Units
Average of all brightness tests	T452	Percent
Average of all opacity tests	T425	Percent
Average of all cross-machine tear strengths tests	T414	Gram

(c) The Board will use the following method to calculate the comparable quality standard for each of the specifications in the newspaper newsprint and lightweight newsprint grades:

Method to Calculate the Comparable Quality Standard Table

- 1) Sum of the test results from samples submitted by manufacturers = _____(1)
- 2) Number of manufacturers submitting samples = _____(2)
- 3) Divide (1) by (2) = _____(3)
- 4) Multiply (3) by 0.98 = _____(4)

The figure on line (4) is the minimum comparable quality standard for these grades.

(d) The Board will use the following method to calculate the comparable quality standard for each of the specifications in the supercalendered and machine finished uncoated groundwood grades:

- 1) Sum of the test results from samples submitted by manufacturers = _____(1)
- 2) Number of manufacturers submitting samples = _____(2)
- 3) Divide (1) by (2) = _____(3)
- 4) Multiply (3) by 1.0 = _____(4)

The figure on line (4) is the minimum comparable quality standard for these grades.

(e) Where can I find the TAPPI methods for sampling procedures, and the test methods for brightness, printing opacity and cross-machine tear strength?

You can find the test methods (T414, T425, T452) in a book called TAPPI Test Methods, Volumes 1 and 2, 1986, published by the Technical Association of the Pulp and Paper Industry, P.O. Box 105113, Atlanta, Georgia, 30348. TAPPI methods can also be found in the Annual Book of the American Society of Testing Materials (ASTM) 0M-87, Volume 15.09, 1988

(f) When will the Board make available, the comparable quality standards The Board will make available the comparable quality standards by November 30 of each year.

(g) For what time period will these comparable quality standards apply?

The comparable quality standards made available by November 30 of each year will apply throughout the following calendar year.

Authority cited: *Sections 40502, Public Resources Code.*

Reference: *Sections 42775(a) and (b), Public Resources Code.*

Section 17966. Comparable Price

How do I know if the price I have to pay for recycled-content newsprint is a comparable price? The price for a grade of recycled-content newsprint is comparable if the quoted price for the recycled-content newsprint is less than or equal to the quoted price for newsprint which is not recycled-content newsprint. These price comparisons shall be grade-specific and for similar quantities.

Authority cited: *Sections 40502, Public Resources Code.*

Reference: *Section 42760, Public Resources Code.*

Section 17968. Availability Within A Reasonable Period of Time

(a) How will I know if the delivery time promised by a newsprint manufacturer or supplier for recycled-content newsprint is reasonable?

(1) A reasonable delivery time for recycled-content newsprint for a commercial publisher shall be forty-five (45) calendar days.

(2) A reasonable delivery time for recycled-content newsprint for a commercial printer shall be calculated by adding the delivery times in days for all deliveries of newsprint of that grade received by the printer in the prior 30 days, dividing the result by the number of deliveries, and multiplying this result by 1.1. If the quoted delivery time is less than or equal to the final result of your calculations the quoted delivery time is reasonable.

(b) What if I have not received a shipment of that grade of newsprint in the previous 30 days? If you have not received a shipment of that grade of newsprint within the last 30

days, add all the delivery times for the last 90 days for the calculation. If you have not received a shipment in the last 90 days, substitute delivery times of a comparable grade of newsprint and complete the calculation.

(c) What if I have never received a shipment of that grade of newsprint or any comparable grades? If you have never received a shipment of that grade or any grade comparable, the recycled-content newsprint shall be considered available within a reasonable period of time if the quoted delivery time does not prevent you from performing the job for which you need the newsprint.

Authority cited: *Sections 40502, Public Resources Code.*

Reference: *Section 42760, Public Resources Code.*

Section 17970. Auditing

(a) Will the Board conduct audits of my certifications? The Board may conduct audits of your certifications. The Board may either ask you for additional information, or the Board may conduct an on-site audit.

(b) How will the Board conduct a request for additional information? To get the information, the Board will send you a request by certified mail. The Board will list the information the Board needs and explain why the Board needs the information. You will have thirty days to supply the information.

(c) How will the Board conduct an on-site audit? If the Board decides to audit your records to determine compliance with the statutory requirements, either Board staff or an auditor will conduct the audit. The Board will send you the results within thirty days of the date on which the audit was performed.

Authority cited: *Sections 40502, Public Resources Code.*

Reference: *Section 42771, Public Resources Code.*

Section 17972. Failure To Meet Goals

(a) I am a consumer of newsprint. What happens if I cannot meet the recycled-content newsprint use requirements for any reporting period?

If you cannot meet the recycled-content newsprint use requirements for any reporting period, you must give the specific reasons why you did not meet them when you file your certification for that reporting period. There are only three acceptable reasons, pursuant to Public Resources Code Section 42773, for not meeting the recycled-content newsprint use requirements:

(1) The recycled-content newsprint did not meet the quality standards established by the Board as defined in Section 17964 of this Article;

(2) The recycled-content newsprint was not available at a comparable price, as defined in Section 17966 of this Article, to that for newsprint which is not recycled-content newsprint; or

(3) The particular grade of recycled-content newsprint would not have been available in a reasonable time as defined in Section 17968 of this Article.

(b) I was not able to meet the recycled-content newsprint use requirements for a reporting period. In my certification, I am going to use one of the reasons listed above to explain why I did not meet the requirements for recycled-content newsprint use. What steps do I have to take to make this certification in good faith?

To make this certification in good faith, you must provide documentation, as described in Public Resources Code Section 42773, showing that you contacted newsprint suppliers for the purpose of obtaining recycled-content newsprint. You must list all newsprint suppliers with whom you had purchase discussions, or producers that offered to sell you recycled-content newsprint within the preceding twelve months, on the Board supplied Newsprint Consumer Certification Form #430 (11/00).

(c) I was not able to meet the recycled-content newsprint use requirements for a reporting period. What records do I have to keep to document my claim?

(1) If you claim that you did not meet the recycled-content newsprint use requirements because recycled-content newsprint was not available at a comparable price to newsprint which is not recycled-content newsprint, you must keep invoices for the newsprint you purchased for your use and copies of the quoted prices which you received for recycled-content newsprint during that particular reporting period.

(2) If you claim that you did not meet the recycled-content newsprint use requirements because the recycled-content newsprint did not meet the comparable quality standards during a particular reporting period, it is your responsibility to document your claim. Examples of documentation include, but are not limited to:

(i) Technical specifications or a letter of certification from the manufacturer of that newsprint demonstrating that the newsprint does not meet the quality standards, or

(ii) A letter of notification to the Board within two days of the date you conclude that the use requirements will not be met. The Board may conduct TAPPI tests, identified in Section 17964 - Table Two of this Articles to assist you in substantiating your claim. If testing is required, the Board shall inform you of proper shipping and handling procedures for the samples based on the provisions of the particular test to be used.

(3) If you are a commercial publisher, and you claim that a grade of recycled-content newsprint was not available within a reasonable period of time during a particular reporting period, you must keep copies of the quoted delivery times which you are claiming were unreasonable.

If you are a commercial printer, and you claim that a grade of recycled-content newsprint was not available within a reasonable period of time during a particular reporting period, you must keep copies of the calculations used to establish your reasonable delivery time for that grade of newsprint and the quoted delivery times which you are claiming were unreasonable.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 42760, and 42773, Public Resources Code.*

Section 17974. Penalties

What can happen to me if I make a false or misleading certification or I do not comply with the statutory requirements?

(a) Any person who does not comply with the statutory requirements for this program may be found guilty of an infraction, and/or may be subject to civil penalties. The Board may assess civil penalties of up to \$1,000 per violation, subject to notice and hearing.

(b) Late filers and non-filers of Newsprint Consumer Certifications (Form 430) shall be subject to the graduated penalty structure below:

Any Consumer of Newsprint who files a certification at least 45 days late will be assessed a \$500 civil penalty.

Any Consumer of Newsprint who files a certification more than 90 days late and/or fails to file will be assessed a \$1,000 civil penalty.

(c) Any civil penalties assessed against a late or non-filer of the Form 430 shall be assessed by the Executive Director.

(d) A Consumer of Newsprint may appeal the penalty assessed above to the full Board within ten (10) working days of the receipt of the Notice of Penalty. This appeal must be made in writing and must be addressed to the Executive Director of the Board. The Executive Director shall calendar the appeal for hearing by the Board within thirty (30) days of the receipt of the written notification by the Consumer of Newsprint.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 42790 and 42791, Public Resources Code.*

Article 5. Recycled Content Trash Bag Program

Section 17975. Regulatory Effect of Questions and Answers.

(a) What is the regulatory effect of the questions and answer format?

Both the question and answer in each Section have regulatory effect for purposes of implementation and enforcement. In addition to the regulations in this Article, statutory provisions contained in Sections 42290 through 42297 of the Public Resources Code (PRC) govern the Recycled Content Trash Bag Program.

Authority cited: *Section 40502, and 42297, Public Resources Code.*
Reference: *Section 42291, Public Resources Code.*

Section 17976. Purpose and Definitions.

(a) What is the purpose of these regulations?

These regulations explain the requirements for each manufacturer and wholesaler of trash bags and each supplier of recycled plastic postconsumer material (RPPCM) which is used to manufacture trash bags which are intended for sale or distribution in California. Also included are procedures manufacturers and wholesalers of trash bags and suppliers of recycled plastic postconsumer material (RPPCM) must follow to meet reporting and certification requirements. These regulations pertain to plastic trash bags which are intended for sale or distribution, or which are sold within California to recycled plastic postconsumer material (RPPCM) used to manufacture plastic trash bags which are sold or intended for sale or distribution in California and other plastic products manufactured by a plastic trash bag manufacturer intended for sale in California.

(b) Definitions. The following definitions, and the definitions found in Public Resources Code Section 42290 apply to the regulations in this Article.

(1) "Actual postconsumer material (APCM)" means the weight, in pounds, of the postconsumer material used in a feedstock to manufacture trash bags. For example, the weight of actual postconsumer material in 1000 pounds of 100% postconsumer material feedstock would be 1000 pounds. However, the weight of APCM in 1000 pounds of resin blended from 70% postconsumer material and 30% non-postconsumer material would be 700 pounds ($1000 \times 0.70 = 700$).

(2) "Annual aggregate use" is the sum of all actual postconsumer material (APCM) used to manufacture plastic products, either just the plastic trash bags or all of a manufacturer's plastic products that are used as a basis for compliance pursuant to Section 17979. For example, if the manufacturer chooses Section 17979(a)(1)(A)1 to show compliance, and if 10 million pounds of regulated trash bags are intended for sale in California, at least 1 million pounds APCM must be used to manufacture plastic trash bags intended for sale in California during that reporting period. Furthermore, the APCM may be used in some plastic trash bags and not in others so long as the cumulative use of APCM in plastic trash bags intended for sale in California exceeds 1 million pounds for the reporting period. If the manufacturer uses Section 17979(a)(1)(A)2 to show compliance and 10 million pounds of regulated trash bags and 90 million pounds of other plastic products were manufactured and intended for sale in California, at least 30 million pounds ($0.30 \times (10+90) = 30$) APCM must be used to manufacture all of those products during that reporting period.

(3) "Authorized certification signature" means the signature of any one of the following persons who has been designated by the entity to sign a certification on its behalf:

For a corporation - A responsible corporate officer or manager authorized to make management decisions which govern the operation of the certifying facility.

For a partnership or sole proprietorship - The general partner or sole proprietor.

For a government agency - Either the principal executive officer or a designated elected official who is authorized to obligate the entity for purposes of this certification.

(4) "The Board" means the California Integrated Waste Management Board.

(5) "Manufacturer" means a person who manufactures plastic trash bags for sale in this state. This includes persons who produce plastic trash bags or convert plastic film into trash bags for sale in this state.

(6) "May" means a provision is permissive.

(7) "Must" means a provision is mandatory.

(8) "Plastic trash bag" means a bag that is manufactured for intended use as a container to hold, store, or transport materials to be discarded, composted, or recycled, including, but not limited to, garbage bags, composting bags, lawn and leaf bags, can-liner bags, kitchen bags, compactor bags, and recycling bags.

A plastic trash bag does not include a grocery sack or any other bag that is manufactured for intended use as a container to hold, store, or transport food.

A plastic trash bag does not include any plastic bag that is used for the purpose of containing either of the following wastes:

(a) "Hazardous waste," as defined in Section 25117 of the Health and Safety Code.

(b) "Medical waste," as defined in Section 25023.2 of the Health and Safety Code.

(9) "Postconsumer material" means a finished product which would normally be disposed of as a solid waste, having completed its intended end-use and product life cycle. "Postconsumer material" does not include manufacturing and fabrication scrap.

(10) "Proximate prior usage" means the collected finished product which the postconsumer material was derived from prior to its being processed into recycled plastic postconsumer material for use in a recycled content trash bag. For example, the proximate prior usage of the postconsumer material may have been, dry-cleaner bags, grocery or produce bags, agricultural film, or stretch wrap.

(11) "Recycled plastic postconsumer material (RPPCM)" means a plastic feedstock which is used to manufacture trash bags which contain postconsumer material. RPPCM may contain any amount (1-100%) of postconsumer material; however, compliance will be determined based on the APCM content of the trash bags.

(12) "Regulated bags" means plastic trash bags, as defined, intended for sale in California, which are at or above 0.70 mil thickness.

(13) "Reporting Period" is from January 1 through December 31 of any calendar year.

(14) A "shipment" is defined as any quantity of trash bags or recycled plastic postconsumer material, regardless of mode of transportation, which is accompanied by an invoice, bill of lading, shipment order, or other evidence of shipment.

(15) A "Supplier" means any person who provides recycled plastic postconsumer material (RPPCM) to a manufacturer of plastic trash bags.

(16) "Wholesaler" means any person who purchases plastic trash bags from a manufacturer for resale in this state. This includes all persons who sell or resell regulated plastic trash bags to retailers, distributors, commercial or industrial users, or governmental entities in California.

Authority cited: *Section 40502, and 42297, Public Resources Code.*

Reference: *Sections 42290 and 42291, Public Resources Code.*

Section 17977. Who Must Comply With These Regulations?

(a) Who must comply with these regulations? You must comply with these regulations if you are:

(1) A manufacturer or wholesaler of regulated trash bags, or

(2) A supplier of RPPCM who sells material to a manufacturer of regulated trash bags.

Authority cited: *Section 40502, and 42297, Public Resources Code.*

Reference: *Sections 42290, 42291, 42292, 42293 and 42294, Public Resources Code.*

Section 17978. Who Must Certify?

Trash bag manufacturers and wholesalers of trash bags must certify annually to the Board on Board-supplied form CIWMB 57 "Plastic Trash Bag Manufacturer Certification" and form CIWMB #58 "Plastic Trash Bag Wholesaler Certification", respectively, which are described in Sections 17979 and 17979.5, and which are incorporated herein by reference. Suppliers of RPPCM must certify annually to the regulated trash bag manufacturers to whom they sell material. The supplier certification form will not be provided by the Board.

(a) Annual Aggregate Certification Requirements for Manufacturers of Trash Bags.

If you are a manufacturer of regulated trash bags, you must comply with the requirements described in Public Resources Code (PRC) Sections 42291, 42292 and 42293. You must annually submit to the Board a completed Trash Bag Manufacturer Certification Form #57 on or before March 1 (to cover the preceding reporting period) of each year.

(b) Certification Requirements for Wholesalers of Trash Bag:

If you are a wholesaler of trash bags, you must comply with the requirements described in PRC Section 42294. You must annually submit to the Board a completed Wholesaler

of Trash Bag Certification Form #58 on or before March 1 (to cover the preceding reporting period) of each year.

(c) Certification Requirements for Suppliers of RPPCM:

If you are a supplier of RPPCM who sells material to a manufacturer of regulated trash bags, you must annually provide each manufacturer with the information described in PRC Section 42292 and in Section 17980 of this Article. This report is due to each regulated trash bag manufacturer to whom you supplied RPPCM by February 1, (to cover the preceding reporting period) of each year.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41970, 41971, 41971.5, 41973, Public Resources Code.*

Section 17979. Requirements for Manufacturers of Regulated Trash Bags.

(a) Manufacturers of Regulated Trash Bags -

(1) I am a manufacturer of regulated trash bags. What must I do to comply with these regulations? To comply with these regulations, you must:

(A) Certify to the Board by March 1 of each year one of the following:

1. That you met the annual aggregate use requirements that plastic trash bags intended for sale in California contained APCM equal to at least 10 percent by weight of the regulated trash bags.

2. That you met the annual aggregate use requirement that 30 percent of the weight of the material used in all of your plastic products intended for sale in California is APCM.

Until January 1, 2001, for each pound of RPPCM purchased from a California source to manufacture the plastic trash bags, or other products manufactured with RPPCM, the Board shall credit the manufacturer with having used 1.2 pounds of RPPCM.

3. Were exempt from meeting the requirements because all of the regulated trash bags you sold in California during the previous reporting period were either:

i. below the minimum gauge standard, or were

ii. hazardous or medical waste bags, or were

iii. non-plastic trash bags.

(B) Provide information upon request to anyone who purchases your trash bags and who must comply with these regulations, that will enable the purchaser to fulfill its certification requirements.

(C) Inform suppliers of RPPCM that the RPPCM being purchased will be reported on a certification to the Board in compliance with these regulations.

(2) I am a manufacturer of regulated trash bags. What information must I send to the Board each year in my certification?

On or before March 1 of each year you must send the following information to the Board for the preceding reporting period in your Trash Bag Manufacturer Certification Form #57:

(A) Identification:

Your company name, headquarters mailing address, every physical address where regulated trash bags were manufactured, contact person, and telephone number.

(B) Certification Information:

Total number of plastic trash bags intended for sale in California,

Total tons of plastic trash bags intended for sale in California,

Total tons of actual postconsumer material used to manufacture all plastic trash bags intended for sale in California, if claiming compliance through Section 17979(a)(1)(A)1,

Total number of regulated trash bags intended for sale in California,

Total tons of regulated trash bags intended for sale in California, if claiming compliance through Section 17979(a)(1)(A)1,

Total tons of material used to manufacture all plastic products intended for sale in California, if claiming compliance through Section 17979(a)(1)(A)2,

Total tons of APCM used to manufacture all plastic products intended for sale in California, if claiming compliance through Section 17979(a)(1)(A)2,

A description of any minimum recycled content mandate(s) of any other local, state, or federal government agencies with which you are required to comply, and the total tons of APCM used to comply with these mandates.

The number of regulated trash bags and the tons of regulated trash bags which originated from each physical location from which the manufacturer shipped regulated trash bags,

If you produce your own RPPCM, total tons of RPPCM produced during the reporting period, and, for each location where RPPCM is produced: tons of RPPCM, APCM content of RPPCM, and proximate prior usage of APCM,

The name and physical location of each supplier of RPPCM,

The quantity and proximate prior usage of, and the actual postconsumer material content of, RPPCM purchased for use in regulated trash bags.

A list of any company(ies) to whom you sold RPPCM during the previous reporting period.

Until January 1, 2001, manufacturers claiming a credit of 1.2 pounds for each pound of RPPCM purchased from a California RPPCM source shall report tons of RPPCM purchased from both California sources and non-California sources.

(C) Accompanying Documentation

Accompanying documentation, such as, results of an independent audit or certification program regarding your regulated trash bags or the RPPCM you purchased, may be attached.

(D) If applicable - Manufacturer's Justification of Non-compliance

If a manufacturer of regulated trash bags is unable to obtain sufficient amounts of RPPCM because the material did not meet the quality standards established by the Board or the RPPCM was not available within a reasonable period of time, the manufacturer shall so certify. The information required to make such claims is identified in Sections 17980.5, 17981, 17982 and/or 17983, and 17983.5 of this Article, as applicable.

Additional recordkeeping requirements regarding such claims are in Sections 17982 and/or 17983 of this Article.

Authority cited: *Section 40502, and 42297, Public Resources Code.*

Reference: *Sections 42291, 42292, and 42293, Public Resources Code.*

Section 17979.1. Recycled Plastic Postconsumer Material That Cannot Be Used for Compliance.

Any certification of RPPCM used for compliance with these requirements shall not include any materials that are certified or used for compliance with any other California or federal requirement that requires the use or reporting of RPPCM for plastic products.

Authority cited: *Sections 40502 and 42297, Public Resources Code.*

Reference: *Section 42290.5, Public Resources Code.*

Section 17979.3 Exemption For Trash Bags Using Adhesive, Heat Affixed Straps; Petition for Variance [Repealed]

Section 17979.5. Requirements for Wholesalers of Regulated Trash Bags.

(a) Wholesalers of Regulated Trash Bags - Wholesalers of regulated trash bags who are not also manufacturers of trash bags shall be guided by the following provisions:

(1) I am a wholesaler of regulated trash bags who is not also a manufacturer of trash bags. What information must I send to the Board each year in my certification? On or before March 1 of each year, you must send the following information to the Board for

the preceding reporting period on your Trash Bag Wholesaler Certification Form #58:

(A) Your company name, headquarters mailing address, every physical address from which regulated trash bags were shipped, telephone number, and contact person,

(B) A list of each manufacturer and each other wholesaler from whom you purchased regulated trash bags during the previous reporting period, and,

(C) The number of regulated trash bags and the tons of regulated trash bags shipped from each physical location which were intended for sale or distribution or sold in California for which you are certifying.

(2) I am a wholesaler of regulated trash bags who is not also a manufacturer of regulated trash bags. Must I provide information to other wholesalers regarding the trash bags I sell? Yes, you must provide information upon request to any wholesaler to whom you sell regulated trash bags and who must comply with these regulations. The information must enable the wholesaler to fulfill its certification requirements.

(A) You must also inform manufacturers and wholesalers of regulated trash bags that the trash bags being purchased will be reported on a certification to the Board in compliance with these regulations.

Authority cited: Sections 40502 and 42297, Public Resources Code.

Reference: Sections 42290, 42291, 42293, and 42294, Public Resources Code.

Section 17980. Requirements for Suppliers of Recycled Plastic Postconsumer Material (RPPCM) for Use in Regulated Trash Bags

(a) I am a supplier of RPPCM who has sold material to a manufacturer of regulated trash bags who is required to comply with these regulations. What must I do to comply with these regulations?

To comply with these regulations, you must:

Provide each regulated trash bag manufacturer with a statement identifying:

(1) the quantity and proximate prior usage of RPPCM sold for use in the regulated trash bags sold to the manufacturer,

(2) the actual postconsumer material (APCM) content of RPPCM sold for use in the regulated trash bags sold to the manufacturer, and

(3) any other information required of the manufacturer by the Board for the purposes of inclusion in the annual certification to the Board.

Authority cited: Section 40502, 42297, Public Resources Code.

Reference: Sections 42292 and 42293, Public Resources Code.

Section 17980.5. What If I Determine During A Reporting Period That I Cannot Meet The Recycled Plastic Postconsumer Material (RPPCM) Content Requirements?

(a) I am a manufacturer of regulated trash bags. Will the Board provide me with any assistance if I determine, during a reporting period, that I may not or cannot meet the RPPCM content requirement?

If at any time during a reporting period, you determine you may not meet the RPPCM content requirement, you must contact the Board within ten (10) calendar days of making the determination. The Board will supply you with information regarding additional suppliers of RPPCM. Following receipt of the information from the Board, you are required to make a good-faith effort to purchase RPPCM to meet the use requirement from each supplier on the Board-provided list. A good-faith effort must be made with each supplier on the Board's list, in addition to those suppliers you have done business with or are otherwise aware of prior to making the certification in Section 17981.

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Sections 42290, 42291, 42292 and 42293, Public Resources Code.*

Section 17981. Failure To Meet Recycled Plastic Postconsumer Material (RPPCM) Content Requirements.

(a) I am a manufacturer of regulated trash bags. What must I do if I do not meet the regulatory requirements for any reporting period? If you are unable to obtain sufficient amounts of RPPCM within any reporting period because (1) it did not meet the RPPCM quality standards promulgated by the Board or (2) it was not available within a reasonable period of time, you must certify that fact to the Board.

(b) Must I provide documentation if I am requesting an exemption due to the lack of availability or due to the low quality of RPPCM?

Yes, required documentation to support a claim for a quality exemption may be found in Section 17982(f) and required documentation to support a claim for an availability exemption may be found in Section 17983(b).

(c) Must records be kept to document a claim? Yes, records must be kept to assist you in documenting your certification. (See Section 17983.5 of this Article)

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Section 42290, 42291, 42292 and 42293, Public Resources Code.*

Section 17982. Minimum Recycled Plastic Postconsumer Material (RPPCM) Quality Standards.

(a) What are the Board's minimum recycled plastic postconsumer material quality

standards for regulated trash bags?

The following recycled postconsumer plastic material quality standards have been developed by the Board for regulated trash bags. The Board will make available the quality standards by December 31 of each year and they will apply for a maximum of two years. The test methods to be used by the Board to determine whether the standards are being met are included with each characteristic, whenever applicable. These minimum specifications are for the plastic RPPCM blended with a minimum of thirty percent (30%) APCM.

(1) Moisture: 750 parts per million (ppm) maximum. Test Method: ASTM D-4019-88 or equivalent method.

(2) Contamination: A specification mutually agreed upon by the trash bag manufacturer and supplier of RPPCM. Test Method: A test method mutually agreed upon by the trash bag manufacturer and supplier of RPPCM.

(3) Pellet uniformity: The total number of pellets in a one gram sample must not vary more than ten percent (+/- 10%) from the average number for five samples. Test Method: A simple count.

(4) Specific gravity: Resin must be within one percent (+/- 1%) of a specific gravity mutually agreed upon by the trash bag manufacturer and resin manufacturer. Test Method: ASTM D-792-91 or ASTM D-1505-90 or equivalent.

(5) Melt Index: HDPE base resin - 0.25-0.85, LDPE base resin - 0.25-2.5, LLDPE base resin - 0.5-2.5, and the melt index must not vary by more than fifteen percent (+/- 15%) within a shipment, and it must be within thirty percent (+/- 30%) from shipment to shipment over the length of the contract. Test Method: ASTM D-1238-88, or equivalent.

The ASTM test methods D-4019-88: Standard Test Method for Moisture in Plastics By Coulometry, D-792-91: Standard Test Methods for Density and Specific Gravity (Relative Density) of Plastics By Displacement, D-1505-90: Standard Test methods for Density of Plastics by the Density-Gradient Technique, D-1238-88: Standard Test methods for Flow Rates of Thermoplastics by Extrusion Plastometer are incorporated herein by reference.

(b) Where can I find the ASTM test methods?

You can find ASTM test methods in the annually updated book called Annual Book of ASTM Standards, (ASTM) Section 8, Volume 08.01, published by the American Society for Testing and Materials, 1919 Race Street, Philadelphia, PA 19103-1187, the noted Sections of which are herein incorporated by reference. All ASTM tests must be performed with the most recently approved methods. The non-ASTM test methods have yet to be standardized or are self-evident.

(c) What if a mutually agreeable specification cannot be reached between buyer and seller of the RPPCM? If a mutually agreed upon specification cannot be reached in

good faith, the trash bag manufacturer must purchase and use RPPCM which meets any past or present specification for RPPCM that the manufacturer has previously used to purchase material.

(d) What if an equivalent test method is mutually agreed upon between buyer and seller of RPPCM and the RPPCM for sale does not pass the test?

As long as the equivalent test method was mutually agreed upon by buyer and seller, an exemption claim based upon the failure to purchase the material will be accepted and evaluated by Board staff. If, however, an equivalent test method is not agreed upon, or problems arise with the test method after an agreement is reached, a trash bag manufacturer may not make a certification pursuant to Section 17981 based on the failure to purchase the material for which the test method was inadequate.

(e) What if a trash bag manufacturer produces its own RPPCM?

If a trash bag manufacturer produces enough RPPCM to meet the RPPCM use requirement, the manufacturer may not claim an exemption. If, however, the manufacturer can produce only a portion of the RPPCM it needs to comply with the requirements of this program, the manufacturer may file a request for an exemption if the failure to meet the use requirement was due to the quality or availability of the RPPCM offered for sale.

(f) I wish to certify that I was not able to meet the regulatory requirements because the RPPCM available to me did not meet the Board's quality standards. What must I do to make this certification?

For each shipment or sample of RPPCM you rejected or refused to purchase on the basis that it did not meet the Board's minimum RPPCM quality standards, it is your responsibility to document your claim. Required documentation includes all of the following, but is not solely limited to these items:

(1) The list of the suppliers of RPPCM with whom you had purchase discussions after you realized that you might not meet the regulatory requirements,

(2) Any and all specifications and test methods which were mutually agreed upon between you and your RPPCM suppliers,

(3) Independent test results, product specifications, a letter of certification, or other documentation from each supplier of RPPCM you rejected or refused to purchase on the basis that it did not meet the Board's minimum RPPCM quality standards, demonstrating that the material does not meet the quality standards,

(4) Performance of ASTM tests, identified in Section 17982(a) of this Article, may be conducted by the Board to assist you in substantiating your claim. If testing is to be done, the Board shall inform you of proper shipping and handling procedures for samples based on the provisions of the particular test to be used,

(5) A written explanation describing the circumstances leading to your decision to reject or refuse to purchase every sample or shipment of rejected or refused RPPCM, and,

(6) A written explanation from the supplier of any sample or shipment of RPPCM describing the quality of the particular material which was rejected or refused by you.

(g) Will the Board periodically review its RPPCM quality standards?

Yes, the Board will review its RPPCM quality standards whenever the Board determines it is necessary. The standards will be reviewed at least once every two years until the year 2000.

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Section 42291, 42295, and 42297, Public Resources Code.*

Section 17983. Availability Within a Reasonable Period of Time.

(a) What is a reasonable period of time for shipment of RPPCM?

RPPCM shall be considered available within a reasonable period of time if the quoted shipment time will not prevent you from manufacturing the regulated trash bags with RPPCM or the shipment of RPPCM will arrive within sixty (60) days of the RPPCM order date.

(b) I must certify that I was not able to meet the regulatory requirements because RPPCM was not available to me within a reasonable period of time. What records must I keep to document my certification?

If you claim that you did not meet the regulatory requirements because RPPCM was not available within a reasonable period of time, it is your responsibility to document each claim. Required documentation for each claim includes, but is not limited to, all of the following:

(1) Copies of your production schedule indicating the date the RPPCM was needed to maintain your production of regulated trash bags,

(2) The quoted shipment times that you are claiming were unreasonable, order date, and quoted delivery date,

(3) RPPCM storage inventory at the regulated trash bag manufacturing facility where the material was to be shipped indicating the material was not otherwise available,

(4) The volume of RPPCM requested in the order,

(5) A written explanation describing any other circumstances contributing to your need to claim an exemption based on the availability of RPPCM,

(6) A written explanation from the supplier of RPPCM describing the availability of the particular material at the time of your negotiations, and,

(7) Additional facts to substantiate that the volume ordered and the timeframe for delivery that were requested were reasonable under normal business practices.

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Section 42291, 42295 and 42297, Public Resources Code.*

Section 17983.5. Recordkeeping Requirements.

(a) I am a manufacturer or wholesaler of regulated trash bags. What records must I keep to comply with these regulations?

To comply with these regulations, you must keep:

(1) A copy or record of every shipment order, bill of lading, or other evidence of shipment of regulated trash bags you sold to a retailer, distributor, wholesaler, broker, commercial or industrial user, or governmental entity,

(2) A copy or record of every shipment order, bill of lading, or other evidence of shipment of regulated trash bags you purchased from a manufacturer or wholesaler of trash bags,

(3) A copy or record of every shipment order, bill of lading, or other evidence of shipment of RPPCM you purchased or that you sold to another trash bag manufacturer which identifies the APCM contained in the RPPCM,

(4) A copy or record of any documentation you are using to verify a claim for an exemption based upon your assertion that the RPPCM did not meet the quality standards or was not available within a reasonable period of time,

(5) A copy of every annual Certification Form #57 or #58 sent to the Board,

(6) A copy of every certification, or other legal document, required by other local, state, or federal government agencies to satisfy minimum recycled content mandates for trash bags or other plastic products,

(7) A certification, or other legal document, with an authorized certification signature, as defined in Section 17976(b)(3) of this Article from each supplier of postconsumer material identifying the material as postconsumer material as defined by PRC Section 41970(c), and the quantity purchased during the preceding calendar year,

(8) A copy of each statement received from a supplier of RPPCM identifying the quantity and proximate prior usage of, and the actual postconsumer material content of each shipment of RPPCM purchased and any other information the Board requires for purposes of inclusion in the annual certification, and,

(9) Any mutually agreed upon quality standard or delivery time for RPPCM.

(b) I am a supplier of RPPCM. What records must I keep to comply with these regulations? To comply with these regulations, you must keep:

- (1) A copy or record of every shipment order, bill of lading, or other evidence of shipment of RPPCM you sold to a manufacturer of regulated trash bags,
- (2) A copy or record of every shipment order, bill of lading, or other evidence of shipment of postconsumer material obtained from a hauler, collector, other RPPCM supplier, or collection program.
- (3) A certification, or other legal document, signed by a person of authority, from each supplier of postconsumer material identifying the material as postconsumer material as defined by PRC Section 41970(c).
- (4) A copy of every annual Certification Form #57 or #58 sent to the Board, or other report or certification sent to a manufacturer of regulated trash bags, and,
- (5) A copy of each statement required to accompany each type of RPPCM sold to a manufacturer of trash bags which identifies the quantity and proximate prior usage of, and the actual postconsumer material content of, each shipment of that RPPCM type and any other information the Board requires of suppliers for purposes of inclusion in the trash bag manufacturers annual certification.

(c) How long must I keep these records?

All records must be kept for three (3) years after the date of certification. The records must be made available to the Board upon request.

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Section 42290, 42291, 42292, 42293 and 42295, Public Resources Code.*

Section 17984. Auditing.

(a) Will the Board conduct audits related to my certifications?

The Board may include audits related to your certifications. The Board may either request additional information, or the Board may conduct an on-site audit. Each manufacturer, wholesaler or supplier required to provide certification or any information pursuant to this chapter shall be subject to audit by the Board.

(b) How will the Board request additional information?

The Board will send you a request for additional information by certified mail. The Board will list the information it needs and explain the need for the information. You will have thirty (30) days from the date of receipt of the request to supply the information.

(c) How will the Board conduct an on-site audit?

If the Board decides to audit your records or facilities to determine compliance with the regulatory requirements, either Board staff or the Board's designee will conduct the audit.

Authority cited: *Section 40502 and 42297, Public Resources Code.*

Reference: *Section 42295, Public Resources Code.*

Section 17985. Penalties.

(a) What may result if I provide the Board with a false or misleading certification?

Any person who provides the Board with a false or misleading certification may be prosecuted for fraud by the Attorney General.

(b) What may result if I do not comply with the regulatory requirements?

The Board shall publish a list of those not in compliance with the requirements of this Article. Manufacturers and wholesalers of regulated trash bags and suppliers of RPPCM who do not comply with these statutes or regulations may be referred to the Attorney General for prosecution.

Authority cited: *Section 40502, 41955, and 42297, Public Resources Code.*

Reference: *Sections 42296 and 42297, Public Resources Code.*

Article 6. At-Store Recycling Program--Recordkeeping, Reporting and Measurement

Section 17987. Scope.

These regulations provide guidance to stores subject to the requirements of the At-Store Recycling Program Law (Public Resources Code Sections 42250 et seq.). Under this law, stores, as defined, shall provide at-store recycling opportunities for plastic carryout bags provided to customers by the stores at the point-of-sale, and shall maintain records describing the collection, transport and recycling of plastic bags collected for a minimum of three years. These regulations are designed to clarify the recordkeeping requirements of that law.

Authority cited: *Sections 40502 and 42252, Public Resources Code.*

Reference: *Section 42252, Public Resources Code.*

Section 17987.1. Applicability.

These regulations do not cover retail establishments that do not meet the definition of a store, or bags that are not plastic carryout bags, as defined. The requirements of the At Store Recycling Program Law apply only to stores as defined in this Article that provide plastic carryout bags to customers at the point-of-sale.

Authority cited: *Sections 40502 and 42252, Public Resources Code.*

Reference: *Sections 42250, 42251, 42252, Public Resources Code.*

Section 17987.2. Definitions.

The following definitions apply to the regulations in this Article.

- (a) "Board" means the California Integrated Waste Management Board.
- (b) "Co-Mingled Recycling Rate" means the percentage of plastic carryout bags recycled relative to all other film plastic material including plastic carryout bags recycled as determined by waste characterization studies performed by or on behalf of the Board, or by operators whose calculation methodology has been approved by the Board.
- (c) "Compostable Carryout Bag" means a bag provided by a store to customers at the point-of-sale that meets the American Society of Testing and Material Standard D6400 for degradation through biological processes or degrades from the action of naturally occurring microorganisms including, but not limited to, bacteria, fungi and algae. This definition includes any bag labeled in compliance with Chapter 5.7 (commencing with Section 42355) of the Public Resources Code.
- (d) "Designated Reporting Party or Parties" means a person authorized by an operator to maintain and report the records and data required by this Article. An operator may have more than one designated reporting party.
- (e) "Local Jurisdiction" means a county, city, city and county, district, public authority, public agency, and other political subdivision or public corporation in the state, but does not include state government.
- (f) "Measurement Period" means the twelve month period beginning on January 1 and ending on December 31 of each calendar year.
- (g) "Operator" means a person in control of, or having daily responsibility for, the daily operation of a store, as defined in this Article, which may include, but is not limited to, the owner, lessee, or franchisee. An operator may have control of more than one store.
- (h) "Person" means any natural person, corporation, partnership, limited liability company, firm, association, or sole proprietorship.
- (i) "Plastic Carryout Bag" means a plastic carryout bag provided by a store to a customer at the point of sale. A compostable carryout bag is not a plastic carryout bag for purposes of this Article.
- (j) "Recycler" means a person who takes possession of plastic carryout bags or other film plastic material that has been collected by an operator for the purpose of recycling the plastic carryout bags or film plastic material. Recycler includes, but is not limited to, brokers, refuse haulers, transporters, drop-off centers and local government recycling programs.
- (k) "Store" means a retail establishment that provides plastic carryout bags to its customers as a result of the sale of a product and that meets either of the following requirements:
- (1) Meets the definition of a "supermarket" as found in Section 17987.2(l).

(2) Has over 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

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

Authority cited: *Sections 40502 and 42252, Public Resources Code.*

Reference: *Sections 42250 and 42252, Public Resources Code.*

Section 17987.3. Recordkeeping.

(a) Each operator or its designated reporting party or parties shall maintain the following records:

(1) A record of the weight of all plastic carryout bags purchased and all plastic carryout bags shipped or delivered to each individual store.

(2) A list of store locations under an operator's control that provide plastic carryout bags to customers.

(3) An operator or its designated reporting party or parties shall maintain one of the following types of records depending on whether it is reporting on the actual weight of plastic carryout bags or is reporting the total weight of all film plastic recycled:

(A) A record of the weight of all plastic bags transported, recycled or otherwise sent for recycling; or

(B) A record of the weight of all film plastic transported, recycled or otherwise sent for recycling. This weight shall include all plastic carryout bags that are co-mingled with other types of film plastic.

(4) A copy of every form or report required to be submitted to the Board.

(5) Operators or designated reporting parties using an operator-calculated co-mingled recycling rate shall maintain any records describing the methodology and calculation(s) of the weights of plastic carryout bags and other film plastic materials that were recycled.

(b) Each operator shall be responsible for maintaining the records required by this Article. An operator may allow its designated reporting party to maintain required records, but the operator shall ultimately be responsible for making all records available to the Board or local jurisdiction, within 30 calendar days after receiving a written request. If records are made available for in-person inspection by the Board or local jurisdiction, such records shall be made available during normal working hours at a

California location.

(c) Each operator shall retain all required records for a minimum of three (3) years after the submission of an annual report required by this Article. If an operator is using a designated reporting party to maintain records, it shall ensure that the designated reporting party retains records for the minimum three (3) years. An operator, at its discretion, may ensure the record retention through a contract.

Authority cited: *Sections 40502 and 42252, Public Resources Code.*

Reference: *Section 42250 and 42252, Public Resources Code.*

Section 17987.4. Submittal of Annual Report.

(a) Each operator or designated reporting party shall submit the required information enumerated in this Section to the Board no later than April 1 of each year for the previous measurement period.

(b) For the 2007 measurement period, operators or designated reporting parties shall be required to only report for the six-month period beginning July 1, 2007 and ending December 31, 2007. An operator or designated reporting party may report for a longer period during the 2007 calendar year at its discretion.

(c) An operator with multiple store locations may submit one annual report for all of its stores. A designated reporting party shall submit a separate annual report and data sheet(s) for each operator.

(d) Notwithstanding subsection (c), a designated reporting party who is reporting on behalf of twenty-five (25) or more operators may submit one annual report including the information required by this Section for all of its operators. Designated reporting parties submitting an annual report in this manner shall report the information required by this Section and shall include a listing of each operator's name, mailing address, telephone number and contact name.

(e) Each operator or its designated reporting party or parties shall report the following information to the Board. The co-mingled recycling rate may be utilized to calculate weights where applicable.

(1) The full and complete name of the designated reporting party if applicable.

(2) The mailing address of the designated reporting party if applicable.

(3) The contact person's name and telephone number for the designated reporting party if applicable.

(4) The full and complete name of the operator.

(5) The mailing address of the operator.

(6) The contact person's name and telephone number for the operator.

(7) The name of the store(s), if different from the name of the operator.

(8) A list of all stores for which the annual report is being submitted. The listing shall include each store name or number and the street address.

(9) The weight of all plastic carryout bags purchased by the operator, and the weight of all plastic carryout bags shipped or delivered to each individual store.

(10) The names and addresses of the recyclers utilized by the operator or designated reporting party or parties.

(11) The addresses of stores, distribution centers, warehouses or other locations where reported transactions occurred.

(12) The weight of plastic carryout bags collected and recycled or sent for recycling by the operator or designated reporting party or parties. This may be reported by either a direct weight method or a total film plastic weight method:

(A) Direct Weight Method. An operator or designated reporting party shall report the actual weight of the plastic carryout bags that were recycled separate from all other film plastic material.

(B) Total Film Plastic Weight Method. An operator or designated reporting party shall report the total weight of all film plastic material, including plastic carryout bags, recycled. The co-mingled recycling rate shall then be applied to the total weight to give an estimate of the number of plastic carryout bags recycled.

(f) The operator or its designated reporting party or parties shall verify that the information was submitted under penalty of perjury, using the following format on the submitted report:

"I certify under penalty of perjury under the laws of the State of California that the information and data contained herein are true and correct."

(Signature)

(Date)

(g) Although an operator may use a designated reporting party or parties to submit the information required in this Section, an operator is nevertheless responsible for compliance with the reporting and other requirements of this Article and may be subject to penalties for non-compliance due to the action or non-action of its designated reporting party or parties.

Authority cited: *Sections 40502 and 42252, Public Resources Code.*
Reference: *Section 42252, Public Resources Code.*

Section 17987.5. Co-Mingled Recycling Rate Determination.

The Board shall, at least once, calculate and publish a co-mingled recycling rate. The co-mingled recycling rate shall be calculated through waste characterization studies that determine the percentage of plastic carryout bags relative to other film plastic materials collected for recycling.

Authority cited: *Sections 40502 and 42252, Public Resources Code.*
Reference: *Section 42252, Public Resources Code.*

Section 17987.6. Submittal of Confidential, Proprietary Data or Trade Secrets.

The submittal of data or information to the Board that is confidential, proprietary or a trade secret under applicable California law shall be subject to the provisions of Title 14, California Code of Regulations, Article 4 (commencing with Section 17041).

Authority cited: *Sections 40502 and 42252, Public Resources Code.*
Reference: *Section 42252, Public Resources Code.*

Chapter 5. Enforcement of Solid Waste Standards and Administration of Solid Waste Facility Permits; Loan Guarantees

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Definitions and General Provisions

Section 18010. Scope.

(a) This chapter is adopted pursuant to and for the purpose of implementing the California Integrated Solid Waste Management Act of 1989 (ACT) commencing with Section 40000 of the Public Resources Code (PRC), as it may be amended from time to time. These regulations should be read together with the Act.

(b) This Chapter implements those provisions of the Act relating to solid waste facilities and disposal sites, and application of minimum standards for solid waste handling and disposal (Chapter 3 of this Division, and 27 CCR Division 2, Subdivision 1 (§20005 et seq.)) to such facilities. Nothing in this chapter is intended to limit the authority of the enforcement agency or the board to enforce the minimum standards as they apply to collection, storage, and removal of solid wastes pursuant to the provisions of Sections 43209 and 43300 of the Public Resources Code (PRC). Nothing in this Chapter is intended to limit the authority of the state or local health agencies.

Authority cited: (Sections 18010-18354, not consecutive): Sections 40502, 43020, 43200, and 43214, Public Resources Code.

Reference: Sections 43200 and 45601, Public Resources Code.

Section 18011. Definitions.

(a) Unless the context otherwise requires, the following definitions shall govern construction of this Chapter:

(1) "Abandoned site" means a site where there is no responsible party as determined by the local enforcement agency and the board.

(2) "Act" means the California Integrated Solid Waste Management Act of 1989.

(3) "Applicant" means the proposed operator of a facility.

(4) "Certified" means submitted and stated under oath, affirmation, or penalty of perjury.

(5) "Certification" means certification by the Board of an enforcement agency pursuant to Section 43200 of the Public Resources Code and Articles 2.1, and 2.2 of this

Chapter.

(6) "Closed site" means a solid waste disposal site that has ceased accepting waste and has documentation that closure was conducted in accordance with applicable statutes, regulations, and local ordinances in effect at the time.

(7) "Decertification" means an action by the California Integrated Waste Management Board which withdraws, partially or fully, prior certification(s) issued to the enforcement agency. This action modifies the enforcement agency's authority within its jurisdiction.

(8) "Enactment" means a federal, state, regional, or local statute, ordinance, regulation, permit, or similar provision having the force of law.

(9) "Enforcement action" means an action of the enforcement agency or the board, taken pursuant to the act or this chapter, including, but not limited to issuing a notice and order, a cease and desist order, cleanup or abatement order, or a corrective action order; to institute a proceeding to modify, suspend, or revoke a permit; to institute a judicial proceeding to obtain an injunction; or to institute a judicial action to obtain civil penalties.

(10) "Evaluation workplan" means a type of corrective action specified by the Board. The action requires the LEA to develop a schedule to address jurisdictional compliance issues identified during the LEA evaluation process. The evaluation workplan is subject to Board approval.

(11) "Facility" means a solid waste facility as defined in Public Resources Code Section 40194 or disposal site as defined in Public Resources Code Section 40122.

(12) "Facility operator" means the operating unit, and other person(s) who through a lease, franchise agreement or other arrangement with the owner of the property is granted the approval to operate a solid waste facility, disposal site, transfer or processing station, composting station, or solid waste handling system, or the owner of the property.

(13) "Illegal site" means a solid waste disposal site that is not permitted and not exempt from obtaining a permit and is not a closed site.

(14) "Inactive site" means a site that is temporarily idle, for a specific period due to known circumstance and not part of the normal operation pattern contained in the solid waste facilities permit.

(15) "Local Agency" means a local public agency or department of a county or a city, a joint powers jurisdiction, or a special district.

(16) "Local Enforcement Agency" (LEA) means an enforcement agency with board certification(s) totally separate from the operating unit(s) of the local governing body. An LEA is a comprehensive solid waste management enforcement agency which performs permitting inspection and in enforcement duties for solid waste handling, and permitted,

Closed, abandoned, exempt, illegal, and inactive facilities. An LEA is solely responsible for carrying out solid waste enforcement in its jurisdiction as defined in 14 CCR Division 7, 27 CCR Division 2, Subdivision 1 (§20005 et seq.) and Division 30 of the Public Resources Code. Upon certification(s) the LEA shall have full power to execute the Act and the regulations adopted hereto.

(17) "Operating Unit" means a local agency within the jurisdiction of the designating local governing body that operates, causes to operate, or administers contracts or agreements for any portion of a facility or solid waste handling and disposal system.

(18) "Operation" means those activities governed by the EA notification tier requirements set forth in Sections 18103-18103.3.

(19) "Owner of the property" means the person or persons owning the fee interest in the property and the person or persons owning any leasehold interest in the property.

(20) "Permit" means a solid waste facilities permit.

(21) "Property" means the real property on which a facility or disposal site, any part thereof, or any support structure exists or is proposed to exist, including any portion of such real property that is not occupied by the facility or any support structure but that is contained within the legal description of the land on which the facility is located as that description is set forth in the most recently recorded deed.

(22) "Regional LEA" means an enforcement agency certified by the Board pursuant to Article 2.1 of this Chapter, with permitting, inspection and enforcement duties within multiple counties.

(23) "Violation" means a lack of compliance with a particular standard, permit term or condition, or other applicable solid waste law or regulation. A violation may be indicated by the checking of a box in the violation column of an inspection report or by other written documentation. The documentation shall indicate the specific standard, permit term or condition, or other solid waste law or regulation not in compliance.

Authority cited: *Sections 40502, 43020, 43200, 43214 and 43231, Public Resources Code.*

Reference: *Section 43200 through 45042, Public Resources Code.*

Section 18012. Mailing and Delivery.

Except as otherwise provided in this chapter, any requirement of this chapter that a document be transmitted, delivered, provided, or sent to any person shall be satisfied in one of the following ways: by personal delivery to the person, by personal delivery to an address the person has given, or by first class United States mail, postage prepaid, to an address the person has given.

Authority cited: *Sections 40502, 43020, 43200, and 43214, Public Resources Code.*
Reference: *Section 43200 through 45601, Public Resources Code.*

Section 18013. Mailing Documents to the Board. [Repealed]

Section 18020. Maintenance of Files.

(a) Every enforcement agency shall maintain a file on each disposal site and facility within its jurisdiction. These files shall include all solid waste facilities that have been granted a permit or that are or have been the subject of an application for a permit. The file on each facility or site shall contain all applications, permits, notices, orders, reports, correspondence, and other documents pertaining to the facility or site, which have been initiated or received by the enforcement agency. However, the enforcement agency, pursuant to Section 44102 of the Public Resources Code, shall separately maintain all papers relating to the facility or site for which a request for confidential treatment has been made, and such papers shall be suitably protected until such time as it has been determined that confidential treatment is not required.

(b) The file for each facility or site shall bear a number, which is determined and assigned by the board.

(c) Each enforcement agency shall maintain a current list of all files it maintains. The list shall be available for public inspection upon request.

(d) All files and their contents shall be retained by the enforcement agency for as long as a facility or disposal site physically exists, and until written discard approval is given by the board.

(e) Upon certification each LEA shall maintain a separate and current chronological log of the enforcement legal and enforcement actions, taken pursuant to 14 CCR Division 7, 27 CCR Division 2, Subdivision 1 (§20005 et seq.) and Parts 4 and 5 of Division 30 of the Public Resources Code. This log shall be retained by the LEA as a file, and shall include at a minimum the following information: facility or site name, address, facility number, the action type, the date issued, and the outcome of the action(s).

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*
Reference: *Sections 40062, 43200, 43209, 45000, 45200, 45201, 45300, and 45301, Public Resources Code.*

Article 2. Designation of a Local Agency and the Appointment of Hearing Panels or Hearing Officer

Section 18050. Scope.

This Article sets forth the requirements for the designation of a local agency as an enforcement agency, and the establishment of hearing panels or selection of a hearing officer pursuant to the California Integrated Solid Waste Management Act of 1989. A local governing body of a city, county, or a joint powers body may designate a single

local agency to be its enforcement agency pursuant to Section 18051 of this Article. Upon board approval of the designation and certification(s) of the local agency pursuant to Articles 2.0, 2.1, and 2.2 of this Chapter, the designated local agency shall become the local enforcement agency (LEA) in the designated jurisdiction. A local governing body may enter into a contract or joint powers agreement with another LEA for permitting, inspection, and enforcement duties within its territorial jurisdiction. This action is subject to board approval of the designation and certification of the contract LEA or the joint powers LEA.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 through 45601, Public Resources Code.*

Section 18051. Designation of a Local Agency.

Each local governing body that wishes to designate a local agency shall so notify the board. The notice of designation, by the local governing body of a local agency, shall be part of a designation information package (DIP) which includes the following information:

- (a) A completed form CIWMB 1000 "Notice of Designation of Local Agency" (1994), which is incorporated herein by reference (See Appendix A.);
- (b) A cover letter requesting approval of the designation by the board;
- (c) Copies of all resolutions and other official documents necessary to establish the manner in which Article 1 of Chapter 2 (commencing with Section 43200) and Chapter 4 (commencing with 44308) of the Public Resources Code and Section 18060 of this Chapter have been satisfied;
- (d) An organizational chart documenting the separation of the designated agency from public agencies or departments that are the operating units under the local governing body;
- (e) An organizational chart documenting the organization of the designated agency;
- (f) An identification of each required hearing panel or hearing officer pursuant to Section 18060 and 18081(e)(2) of this Chapter.
- (g) A tabulation of city resolutions including the listing of all city names, their populations, and the percent of cities and populations approving the designation for the jurisdiction;
- (h) An enumeration of every solid waste facility and disposal site in the jurisdiction including permitted, closed, abandoned, exempt, illegal, and inactive facilities. The enumeration shall include the site address or location, the owner(s) and operator(s) name(s), address(es), and site/emergency telephone numbers, and shall state whether the site or facility lies within the unincorporated area of the jurisdiction, or within an incorporated city and the city name; and

(i) An enumeration of every solid waste handling and collection operator in the jurisdiction. The enumeration shall include the requirements of 14 CCR 17332.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 and 43203 through 43207, Public Resources Code.*

Section 18052. Redesignation of Existing LEAs. [Repealed]

Section 18053. Distribution of Notice of Designation. [Repealed]

Section 18054. Review of Designation.

(a) Upon receipt of the designation information package (DIP), pursuant to Section 18051, the board staff, within 45 days, review the designation and notify the local agency and the designating local governing body in writing whether or not the proposed DIP is complete and accepted by the board staff. Should the DIP be incomplete, the local governing body and/or its designated local agency shall provide to the board the specific missing information thereby starting a new 45 day review period from the date of resubmittal.

(b) The board shall use the following criteria when reviewing designations:

(1) the designation and certification must be consistent with the enforcement scheme contemplated in the Countywide Integrated Waste Management Plan upon its adoption and the LEA's Enforcement Program Plan (EPP); and

(2) The designated local agency shall fully comply with certification requirements pursuant to Article 2.1 of this chapter

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200, 43203, and 43204, Public Resources Code.*

Section 18055. Effective Date of Designation. [Repealed]

Section 18056. Local Governing Body Withdrawal of LEA Designation.

(a) A designation of an LEA may be withdrawn by the local governing bodies that originally made the designation. Notice of the withdrawal shall be given to the board a minimum of 90 days in advance of the desired effective date of the withdrawal. This shall be done by a local governing body resolution or other official document in the same manner the designation was made. The notice of withdrawal shall specify whether a new local agency is to be designated, or whether the local governing body intends to have the Board become the new enforcement agency. If the notice of withdrawal provides that a new local agency is to be designated, the the withdrawal of designation shall be expressly conditioned on board approval of the new designation. If the notice of withdrawal states that it is the local governing body's intention for the board to become the new enforcement agency, then the withdrawal of designation shall not become effective until the Board notifies the local governing body that it is prepared to assume responsibility as the enforcement agency. The Board shall provide such notification on

or before: (1) the end of the current fiscal year; or (2) 90 days after the notice of withdrawal is given to the Board, whichever is later. The Board shall then become the enforcement agency.

(b) All enforcement actions, pending violations, orders of corrections, requests for technical reports, or other enforcement agency efforts to achieve compliance with state requirements (including LEA enforcement actions and state minimum standards and permits) which were in effect under the departing LEA shall remain in effect under the jurisdiction of the new enforcement agency.

(c) Notice of designation of a new local agency shall be made in the manner specified in Section 18051.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43203, 43206, and 43216, Public Resources Code.*

Section 18060. Appointment of Hearing Panel(s) or Hearing Officers.

(a) Before the board can approve a designation, the designated local agency's local governing body shall appoint a hearing panel or hearing officer. The hearing panel shall be composed of either members of the local governing body or an independent hearing panel pursuant to Section 18081(e)(2). There shall be an independent hearing panel or hearing officer when in the jurisdiction of the enforcement agency there exists a publicly owned or operated solid waste facility or disposal site.

(b) Notice of the appointment of a hearing panel(s) or hearing officer shall be given the board and shall include the following:

(1) The name of each member and her or his position in the local governing body. If an independent hearing panel is appointed pursuant to Section 44308 of the Public Resources Code, an indication of which person is the technical expert in solid waste management, which person is the member of the local governing body, and which person is the representative of the public at large;

(2) the address to which filings and correspondence shall be mailed;

(3) indication whether each hearing panel was appointed pursuant to Section 44308(a)(1) or (a)(2) of the Public Resources Code; and

(4) The date, terms and conditions of the appointment.

(c) Notices of appointments to vacant positions on the hearing panel or hearing officer shall be given in the same manner.

(d) When the board serves as the enforcement agency, hearing panels shall be as set forth in Public Resources Code Section 44309.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200, 44800, and 44801, Public Resources Code.*

Article 2.1. LEA Certification Requirements

Section 18070. Scope.

(a) This Article sets forth the LEA certification types, the requirements for certification and certification maintenance including, but not limited to: technical expertise, adequacy of staff resources, adequacy of budget resources, training, and the LEA's Enforcement Program Plan (EPP), which the designated local agency shall develop, submit for board approval, and adopt pursuant to Public Resources Code Section 43209(e) and Section 18077 of this Chapter, and the periodic review of the LEA certification(s) pursuant to Article 2.2 of this Chapter.

(b) After certification(s) is issued and upon board approval, the designated local agency shall become the sole LEA in its jurisdiction, and shall maintain and comply with its board approved EPP to exercise its statutory power and authority pursuant to Division 30 of the Public Resources Code, 14 CCR Division 7, and 27 CCR Division 2, Subdivision 1 (§20005 et seq.). The LEA shall enforce the state and local minimum standards for solid waste collection, handling, storage, and disposal for the protection of the air, water, and land from pollution and nuisance, and for the protection of the public health and safety, and the environment. This Article also addresses board directories of hearing panels or hearing officers and enforcement agencies.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 through 45601, Public Resources Code.*

Section 18071. Types of Certification.

(a) The Board may approve a designated local agency and issue certification(s) to the local agency in one or more of the following types of certifications:

(1) Type "A": permitting, inspection, and enforcement of regulations at solid waste disposal sites;

(2) Type "B": permitting, inspection, and enforcement of regulations at solid waste transformation facilities;

(3) Type "C": permitting, inspection, and enforcement of regulations at transfer and processing stations, materials recovery facilities, and composting facilities; and

(4) Type "D": inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills.

(b) In jurisdictions where LEAs lack a certification to permit a new type of facility, the permit applications, for that type of facility, shall be filed by the applicant with the board. The LEA shall, within 120 days of the permit application, obtain certification for this facility type, or the board shall review the performance of the LEA pursuant to Section 18051 and Article 2.2 of this Chapter and compliance with Public Resources Code

Section 43201.

(c) An LEA lacking a specific certification type pursuant to 18071(a) may submit a new complete EPP for board review and request issuance of an additional certification to perform permitting, inspection, and enforcement duties in another jurisdiction, or inspection and enforcement duties in its jurisdiction, both pursuant to Article 2.1 of this Chapter, and subsequent to board approval.

(d) When in the LEA's jurisdiction only one permitted solid waste disposal facility exists and its permit is surrendered, the LEA shall retain its type "A" certification, unless the LEA certification is withdrawn by the board.

(1) For LEAs to be issued type "D" certification they shall be required to have type "A" certification.

(e) A designated local agency shall demonstrate that it meets the certification requirements for each certification type requested. The LEA shall maintain compliance with the requirements of this Chapter.

(f) Sections 18071 through 18075 of this Article set forth the LEA certification requirements pursuant to Public Resources Code Section 43200.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 through 43204, and 43209, Public Resources Code.*

Section 18072. Technical Expertise.

(a) Performance of permitting, inspection, and enforcement duties and responsibilities of comprehensive solid waste enforcement issues shall reside solely within an LEA. The LEA shall have one or more full time staff members dedicated solely for solid waste issues. For all certification types the dedicated staff shall be composed of at least one registered environmental health specialist (REHS), pursuant to Sections 106600 through 106735 of the Health and Safety Code. Additional staff for permitting, inspection, and enforcement duties may be a REHS(s), or person(s) meeting the requirements of Sections 106635 of the Health and Safety Code, as certified by the LEA program director or manager.

(1) The REHS shall have experience and training in solid waste enforcement. This experience and training shall be current and subsequent to the enactment of the California Integrated Waste Management Act of 1989 commencing with Section 40000 of the PRC.

(2) The REHS experience and training shall include the following:

(A) permitting and closure/postclosure duties as described in 14 CCR 18082;

(B) inspection duties as described in 14 CCR 18083; and

(C) enforcement duties as described in 14 CCR 18084.

(3)

(A) For type "A" certification, pursuant to 14 CCR 18071(a)(1), LEA review of documents or reports generated pursuant to engineering requirements of Public Resources Code Division 30 and 27 CCR Division 2, Subdivision 1 (§20005 et seq.), beyond the technical abilities of the LEA's staff, shall be performed by public and private entities as specified in the LEA's EPP, whose staff meet the following definitions contained in 27 CCR 20164: "Certified Engineering Geologist," "Registered Civil Engineer," and "Soil Engineer."

(B) The LEA review in subsection (a)(3)(A) may be contracted for by the LEA or the LEA may use appropriate CIWMB staff to perform those duties.

(4) For type "B" and "C" certifications, pursuant to 14 CCR 18071(a) (2 and 3), LEA review of documents or reports generated pursuant to engineering requirements of Public Resources Code Division 30 and 14 CCR Division 7, may be performed by public and private entities, as specified in the LEA's EPP, under contract to the LEA, which meet the following definitions contained in 27 CCR 20164: "Certified Engineering Geologist," "Registered Civil Engineer," and "Soil Engineer."

(b) Counties or cities may have contracts or joint powers agreements pursuant to Government Code, Section 6500 et. seq. or as authorized by law, with another county, city, or joint powers jurisdiction LEA to provide permitting, inspection, and enforcement duties and responsibilities in the designated jurisdiction of the local governing body(s), with approval of the board. The above contracts or joint powers agreements shall preclude conflict of interest between the cities or counties, their designated LEA, or the LEA's consultants and facility operators in the jurisdiction. The following consulted professionals defined in 27 CCR 20164 shall not be facility operators or consultants for solid waste facilities or disposal sites within the LEA's jurisdiction unless approved by the board: "Certified Engineering Geologists," "Professional Land Surveyor," "Registered Civil Engineer" "Registered Geologist," and "Soil Engineer."

(c) Any opinion, report, analysis, or other deliverable provided to an LEA through contract or joint powers agreement shall be endorsed, affirmed or denied by the contracting LEA.

(d) Notwithstanding subsection (a), designated local agencies for jurisdictions having a population of less than 50,000 persons and existing LEAs whose jurisdictional population grows beyond 50,000 persons, but does not exceed 80,000 persons, may alternately implement the following staffing provisions to demonstrate their technical expertise and adequacy of staff resources.

(1) staffing shall be determined and submitted for board approval pursuant to 14 CCR 18073; and

(2) permitting, inspection, and enforcement duties, for a designated local agency having

demonstrated its adequacy of staff resources with one or less full time staff member, shall be performed by one individual REHS.

(e) Designated local agencies, which elect subsection (d) to fulfill staffing requirements, shall be issued temporary certification(s) by the board.

(1) This temporary certification(s) shall expire upon conclusion of the LEA performance evaluation by the board.

(2) The LEA shall be issued full certification(s) by the board when the evaluation confirms LEA compliance with Article 2.2 of this Chapter.

(f) LEAs with one or less staff members shall, upon the loss of staff, provide staff resources meeting the requirements of this Section within 90 days, or the board shall become the enforcement agency within the LEA's jurisdiction until another local designated agency is approved and issued certification(s) by the board.

(g) The LEA shall resume temporary certification(s) status when staff is replaced pursuant to subsection (f) until the requirements of subsection (e)(1) and (2) are met.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 through 43204, 43207, and 43209, Public Resources Code.*

Section 18073. Adequacy of Staff Resources.

(a) The LEA shall demonstrate the adequacy of its staff resources by submitting documentation of the following analyses:

(1) the number and type of operating and non-operating solid waste facilities, disposal sites, and collection and handling equipment;

(2) the number of annual compliance and projected complaint inspections based on the previous years records and anticipated additions or deletions;

(3) the time allocation requirements of local agency staff for:

(A) inspections, travel, research, analysis of findings, and documentation;

(B) enforcement activities including warnings, notices, meetings, hearings, legal proceedings, and documentation;

(C) permit activities including reviews, modifications and revisions, and closure or postclosure activities, including applications and plan reviews, site evaluations and investigations, and documentation;

(D) corrective actions including; review and approval of site investigations, assessments, characterizations, remediation alternatives, and corrective measures;

(E) training including field, meetings, seminars, workshops, courses, and literature

reviews;

(F) management including day to day operation scheduling, and supervision; and

(G) support staff both technical and non-technical.

(4) The staff resources shall be computed based on a Full Time Equivalence (FTE) not to exceed 230 eight hour work days per year per person. The FTE baseline hours shall be identified in the EPP.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200 through 43204, and 43209, Public Resources Code.*

Section 18074. Adequacy of Budget Resources.

(a) The LEA shall maintain a budget accounting process capable of identifying expenditures and revenues which are adequate to fulfill their LEA duties and responsibilities pursuant to its board approved EPP, this chapter, and Part 4 and 5 of Division 30 of the Public Resources Code. Additionally, LEAs shall, at the beginning of each fiscal year upon adoption by the local governing body, submit to the board supporting information demonstrating budget adequacy.

(1) The LEA shall use methods that demonstrate adequate budget resources for implementing the provisions of this Article. The LEA shall account for all anticipated expenditures, including but not limited to the following:

(A) staffing pursuant to 14 CCR 18073;

(B) monitoring and testing materials and equipment;

(C) health and safety protection equipment and materials for staff;

(D) travel and per diem for training seminars, conferences, etc.;

(E) enforcement actions including staff time and independent legal counsel costs to preclude conflict of interest and lack of timely initiation of legal actions pursuant to 14 CCR 18051(b) 6) and 14 CCR 18084;

(F) consultant and technical support;

(G) transportation; and

(H) agency overhead.

(2) LEAs shall identify their revenue by sources and amounts. Sources may include, but are not limited to:

(A) Funds from LEA Grant(s) Account;

- (B) Permitting Fee(s);
- (C) Inspection or Service Fee(s);
- (D) Post Closure Fee(s);
- (E) Tipping and Tonnage Fees;
- (F) 5 Year Permit Review Fee(s);
- (G) General Fund; and
- (H) Other (specify).

Authority cited: Sections 40502, 43020, and 43200, Public Resources Code.

Reference: Sections 43200 through 43204, 43207, and 43209, Public Resources Code.

Section 18075. Training Requirements.

(a) LEA personnel shall be trained in solid waste enforcement. The LEA's training program shall be coordinated with the board as well as other state and local agencies, be part of the LEA's Enforcement Program Plan pursuant to 14 CCR 18077, and provide specific training in the following areas:

(1) permitting, inspection, and enforcement duties and responsibilities pursuant to Public Resources Code Division 30, Parts 4 and 5, 14 CCR Division 7 and 27 CCR Division 2, Subdivision 1 (§20005 et seq.), and local ordinances and resolutions relating to solid waste collection, handling, processing, storage, and disposal;

(2) inspection techniques and scheduling;

(3) preparation for hearing panel or hearing officer and court proceedings;

(4) administration practices within a solid waste enforcement program;

(5) monitoring equipment, data evaluation, and interpretation of the results as related to solid waste enforcement;

(6) attendance of board approved seminars and workshops;

(7) field staff health and safety training in the categories of: planning of field inspections, safety equipment, on-site procedures, decontamination and hazard recognition, and avoidance; and

(8) for type "A" certification, specific training in performance standards pursuant to 27 CCR 20685, when applicable.

Authority cited: Sections 40502, 43020, 43200, and 43214, Public Resources Code.

Reference: Sections 43200 through 43204, and 43209, Public Resources Code.

Section 18076. Request for and Review of Certification.

(a) Within 45 days of receipt of a request for certification(s), the board shall notify the requesting local agency in writing as to whether the request in the form of an Enforcement Program Plan (EPP) pursuant to Section 18077 of this Chapter is:

(1) complete and accepted and shall be reviewed; or

(2) the EPP is incomplete and what specific information is missing, and needs to be submitted to the board to provide for a complete EPP. The board will require the agency to provide the specific missing information, thereby starting a new 45 day process from the date of resubmittal.

(b) When an EPP is complete and accepted, the board shall have 60 days from the date of the acceptance, to conduct a review of the designation and certification information in the EPP.

(1) The board shall issue a certification(s) decision stating which types of certification are to be issued or denied, and that the designation and EPP are approved or disapproved. A copy of the board decision shall be sent to the requesting agency, its local governing body, and all appropriate State agencies.

(2) If during the review process the board finds any specific deficiencies, it shall notify the requesting agency within 45 days from the date of acceptance for review. A new 60 day review period shall begin on the date of resubmittal.

(c) The board may elect to issue temporary LEA certification(s) and/or designation approval for specific time periods.

(d) After approval of the EPP, the board shall periodically review the LEA's enforcement program plan (EPP) and its implementation of the permitting, inspection, and enforcement programs pursuant to Public Resources Code Sections 43209 and 43214.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Section 43200 through 43209, Public Resources Code.*

Section 18077. Enforcement Program Plan (EPP).

(a) The LEA shall develop, adopt, and submit for board approval an EPP pursuant to Public Resources Code Section 43209(e). The EPP shall embody the designation and certification requirements and demonstrate that the LEA meets all the requirements pursuant to Public Resources Code Sections 43200, 43203, 43207, and 43209, 14 CCR Division 7, Chapters 3 and 5, and 27 CCR Division 2, Subdivision 1 (Section 20005 et seq.). At a minimum, the EPP shall include the following written components:

(1) a certification request letter;

(2) an accepted designation information package (DIP) pursuant to 14 CCR Section

18051;

(3) a statement of EPP goals and objectives;

(4) a copy of the enabling ordinance(s) or resolution(s) for the LEA jurisdictional authority;

(5) a copy of all local solid waste collection, handling, storage, and disposal statutes or ordinances;

(6) a comprehensive list of all types of solid waste facilities and disposal sites, and solid waste handling and collection vehicles within the jurisdiction;

(7) a time task analysis demonstrating the adequacy of staff resources pursuant to 14 CCR Section 18073;

(8) a demonstration of staff technical expertise;

(9) an operating budget demonstrating adequacy of budget resources pursuant to 14 CCR Section 18074;

(10) a detailed staff training procedure pursuant to 14 CCR Section 18075;

(11) a procedure manual for solid waste facility permitting and closure or postclosure;

(12) a procedure manual for random and unannounced inspection and investigation, compliance assurance, enforcement, and hearing panel or hearing officer utilization; and

(13) a procedure manual for disposal site identification, assessment, and corrective actions.

Authority cited: *Sections 40502, 43020, 43200, and 43214, Public Resources Code.*

Reference: *Sections 43200 through 43209, Public Resources Code.*

Section 18078. Directory of Enforcement Agencies, Hearing Panels, and Hearing Officers.

The board shall maintain a statewide directory of hearing panels, hearing officers and local enforcement agencies as approved and issued certification(s) by the board. The directory shall include a description of the jurisdiction and mailing address of each and shall be open to the public inspection pursuant to Article 4 of Chapter 1 of this division. The board shall promptly respond to inquiries by the public regarding the identity or location of an enforcement agency, hearing panel, or hearing officer.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43200, 43201, 43204, 44800, and 44801, Public Resources Code.*

Article 2.2. LEA Performance Standards, Evaluation Criteria, and Duties and Responsibilities

Section 18080. Scope.

This Article, pursuant to Public Resources Code Section 43214, sets forth the LEA's duties and responsibilities, performance standards, certification maintenance requirements, and board evaluation of LEAs.

Authority cited: Sections 40502, 43020, 43200, and 43214, Public Resources Code.

Reference: Sections 43209, 43214, 43215, 43216, and 43219, Public Resources Code.

Section 18081. LEA Performance Standards and Evaluation Criteria.

(a) In performing its permitting, closure and postclosure, inspection, and enforcement functions, the LEA shall meet its duty requirements and comply with the standards pursuant to Public Resources Code Division 30, Parts 4, 5, and 6; 14 CCR Division 7, 27 CCR Division 2, Subdivision 1 (§20005 et seq.) and its EPP. Deviation from these standards may result in a performance review by the Department pursuant to Public Resources Code Sections 43214, 43215 and 43219, including establishment of LEA compliance schedules or withdrawal of designation and certification(s) approvals. The Department's evaluation and decisions will consider the severity of the deviation(s) as related to the potential negative impacts on public health, safety or the environment.

(b) The LEA shall be assessed for compliance with the certification requirements pursuant to Article 2.1 and 2.2 of this Chapter, Public Resources Code Section 43209, and its board approved EPP.

(c) All facilities and disposal sites within the LEA's jurisdiction shall:

(1) be in compliance with the state minimum standards and either the terms and conditions of the solid waste facility permits, the Department-approved final closure and postclosure maintenance plans, have completed postclosure maintenance and monitoring pursuant to 27 CCR Sections 21180 and 21900, or have ceased operation prior to January 1, 1988; and

(2) be permitted, exempted, governed by board-approved final closure and postclosure maintenance plans, or have completed postclosure maintenance and monitoring pursuant to 27 CCR Sections 21180 and 21900; or

(3) be under appropriate enforcement action(s) pursuant to 14 CCR Section 18084 to remedy any violations.

(d) All operations within the LEA's jurisdiction shall:

(1) be in compliance with the state minimum standards, as applicable; and

(2) meet notification requirements as applicable; or

(3) be under appropriate enforcement action(s) pursuant to 14 CCR Section 18084 to remedy any violations.

(e) All LEAs shall retain their certification(s) and designation approvals by maintaining compliance with their board-approved EPP and this Chapter.

(1) The LEA shall provide for, obtain, and maintain the necessary technical, safety and regulatory equipment, clothing and vehicles for field inspectors. The LEA shall identify in its board-approved EPP what constitutes "necessary" for staff safety and field monitoring, measurement, inspection, and enforcement requirements for all its solid waste enforcement duties and responsibilities and its certification(s).

(2) When in the jurisdiction of the EA there exists a publicly owned or operated solid waste facility or disposal site, the local governing body shall maintain an independent hearing panel or hearing officer for permit, enforcement and appeal purposes, as per Section 18060 of this Chapter and Sections 44308 through 44310 of the Public Resources Code.

(3) The LEA/EA shall provide for technical review of corrective actions and postclosure land use pursuant to Sections 43500-43510 and 45000 of the Public Resources Code.

(4) The components of the EPP shall be reviewed and amended by the LEA annually or more frequently as determined by the Department to reflect any changes. The amended components shall be submitted to the Department for approval.

(f) The LEA/EA shall perform all applicable duties related to the California Environmental Quality Act, Public Resources Code Sections 21000 et. seq.

Authority cited: Sections 40502, 43020, 43200, 43203, and 43214, Public Resources Code.

Reference: Sections 43200 through 43204, 43207, and 43209, Public Resources Code.

Section 18082. LEA Duties and Responsibilities for Permitting and Closure or Postclosure.

(a) The LEA/EA shall implement the solid waste facility permitting regulations pursuant to Public Resources Code Division 30, Parts 4 and 5, 14 CCR Division 7, Chapter 5, 27 CCR Division 2, Subdivision 1 (§20005 et seq.), and its EPP, where applicable, as follows:

(1) applications:

(A) verify the submission of required documents, site and personnel information, and fees;

(B) evaluate the application documents for accuracy and conformity to the EPP and the appropriate state standards cited in subsection (a) of this Section;

(C) review for short and long term environmental impacts, damage, and proposed mitigation measures;

(D) decide whether or not to accept the application and proceed with a proposed permit for board approval;

(E) initiate appropriate public notice and comment period; and

(F) submit copies of the above documents, notices, comments and responses to the Department.

(2) proposed permits:

(A) prepare permits with specific conditions for design, operation, and adverse environmental effect, monitoring and mitigation;

(B) submit proposed permits to the Department and the applicant;

(C) allow a waiting period for review, concurrence, or objection by the Department, and modification by the LEA as required;

(D) issue or deny the issuance of the solid waste facilities permit, upon satisfactory conclusion of the above process; and

(E) the LEA/EA shall act upon applications and plans to generate a proposed solid waste facilities permit within the required regulatory and/or statutory time frames.

(3) closure and postclosure:

(A) pursuant to Public Resources Code Division 30 Parts 4 and 5 and 27 CCR Division 2, Subdivision 1 (§20005 et seq.), and the EPP, the LEA/EA shall require any person owning or operating a solid waste landfill to submit for LEA/EA and board approval the following:

plans for the landfill closure and postclosure maintenance;

estimates of closure and postclosure maintenance costs; and

evidence of financial mechanisms to ensure adequate availability of funds.

Authority cited: Sections 40502, 43020, 43200, and 43214, Public Resources Code.

Reference: Sections 43200, 43209, 43500 through 43606, 44001 through 44017, 44300, and 44301, Public Resources Code.

Section 18083. LEA Duties and Responsibilities for Inspections.

(a) Pursuant to Public Resources Code Division 30, Parts 4 and 5, and 14 CCR Division 7, Chapters 3 and 5, 27 CCR, Division 2, Subdivision 1 (§20005 et seq.), and its EPP, the LEA/EA shall inspect and investigate solid waste collection, handling, and storage,

solid waste facilities, operations and disposal sites and equipment to verify compliance with the state minimum standards, solid waste facilities permits, and related state solid waste laws and regulations within their purview for the protection of the environment and the public health and safety. The LEA/EA shall perform these inspections and related duties as required below, and forward inspection reports to the operator, and/or owner, and the Department within 30 days of the inspection:

(1) weekly, for sites operating on performance standards pursuant to 27 CCR Section 20695;

(2) monthly, for all active and inactive facilities, and for illegal sites and facilities, pending abatement by enforcement action(s);

(3) at the frequency required by the state minimum standards for each type of operation specified in 14 CCR Sections 17383.9., 17403.5., and 17896.9. All other operations regulated under the EA Notification tier shall be inspected by the EA at least once every three (3) months unless the EA approves, with Department concurrence, a reduced inspection frequency. The EA may approve a reduced inspection frequency only if it will not pose an additional risk to public health and safety or the environment, and in no case shall the inspection frequency be less than once per calendar year. The EA shall submit a copy of the EA-proposed approval to the Department. The Department shall concur in the EA-proposed approval only if it finds that the reduced inspection frequency will not pose an additional risk to public health and safety or the environment in light of the specific circumstances at the operation in question. The Department shall concur or deny the EA-proposed approval within thirty (30) days from receipt.

(4) quarterly, for closed sites, abandoned sites, and sites exempted pursuant to 27 CCR Section 21565. For closed sites, inspections shall be made until no potential threat exists to public health and safety or the environment. This determination shall be subject to Department approval. For the purposes of this subsection, the enumeration, and the workload analysis, a closed site means a site that has ceased accepting waste and, should be closed, is undergoing closure, or has met applicable closure requirements;

(A) the Department may approve an alternate inspection frequency for these sites where such an action will not result in adverse impact on public health and safety and the environment.

(5) if an LEA has been designated as the EA for waste tire facilities or entered into an agreement with the Department through a grant program to inspect tire facilities, major waste tire facilities shall be inspected annually, minor waste tire facilities shall be inspected at least once every two and a half years pursuant to 14 CCR Section 18443;

(6) upon receipt of a complaint or emergency notification which cannot be resolved off-site;

(7) as necessary, pursuant to the EPP, upon receipt of a solid waste facilities permit application, revision, review, RFI amendment, or closure/postclosure plan;

(8) pursuant to the EPP, for solid waste handling and collection equipment; and

(9) at the frequency described in Sections 17409.5.12, 17869(j), and 17896.45(k).

(b) As specified in their EPP pursuant to Section 18077, the LEA/EA shall conduct any of the above inspections, whenever possible, without prior notice to the owner or operator, on randomly selected days, during normal business hours or the site's operating hours.

Note:

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

Reference: Sections 40053, 42652.5, 43020 and 43021, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 18084. LEA Duties and Responsibilities for Enforcement.

(a) If during an inspection, investigation, or at any other time, the LEA/EA finds a solid waste facility, operation, or disposal site, is in violation of state standards, the terms and condition of a permit, or any related state solid waste laws or regulations within their purview, the LEA/EA shall enforce the applicable provisions as required by PRC Division 30, 14 CCR Division 7, Chapter 5, Article 4, 27 CCR, Division 2, Subdivision 1 (§20005 et seq.), and its EPP. The LEA/EA enforcement actions shall address the following categories of violations:

(1) operational violations pursuant to 14 CCR Division 7, Chapter 3 and 3.1, 27 CCR, Division 2, Subdivision 1 (§20005 et seq.) and Division 30 of the Public Resources Code;

(2) emergency violations, pursuant to subsection (1) above which present and imminent threat to public health and safety, or the environment and require immediate action pursuant to Part 5, Division 30 or the Public Resources Code;

(3) permit violations, pursuant to Public Resources Code Division 30, Part 4, Chapter 3 and 14 CCR, Division 7, Chapter 5, and 27 CCR Division 2, Subdivision 1 (§ 20005 et seq.);

(4) closure and postclosure violations, pursuant to Public Resources Code Division 30, Part 4, Chapter 2, Articles 3 and 4, Part 5, and 27 CCR, Division 2, Subdivision 1 (§ 20005 et seq.);

(b) LEA/EA enforcement action options include, but are not limited to 14 CCR Division 7 Chapter 5, Article 4, 27 CCR, Division 2, Subdivision 1 (§ 20005 et seq.), and Public Resources Code Division 30 Parts 4 and 5.

(c) If in the course of an enforcement action, the LEA/EA deems legal counsel to be necessary to achieve enforcement, compliance, relief, or the assessment of monetary penalties through the courts, the LEA/EA shall utilize legal counsel which will be prepared to initiate legal proceedings within 30 days of notification.

(d) If the LEA fails to take appropriate enforcement action to cause an operator to correct violations, or to abate an imminent threat to public health and safety or the environment, the Department may take appropriate enforcement action pursuant to PRC Sections 45012, 43216.5, and CCR Title 14 Section 18350, and also investigate the LEA's designation and/or certification pursuant to PRC Section 43214. the Department shall apply the following two general criteria to determine if the LEA is taking appropriate enforcement action:

(1) Criterion 1: If the operator is making timely progress toward compliance, then the LEA is taking appropriate action and criterion 2 need not be applied. If the operator is not making timely progress, then criterion 2 shall be applied. In determining whether or not the operator is making timely progress, the Department shall consider the following:

(A) The operator's success or lack thereof in accomplishing specific tasks within the timeframes specified in a compliance schedule, or a notice and order.

(B) Information presented by the LEA supporting reasonable deadline extensions in cases where the operator has made a good faith effort to comply, but a delay in compliance has been caused by extenuating circumstances outside the operator's and LEA's control. Examples of extenuating circumstances outside the operator's and LEA's control include acts of God such as inclement weather, earthquakes, etc. Information regarding reasonable deadline extensions due to delays in obtaining discretionary permits or other government agency approvals where the operator's actions or failure to act was not the cause of the delay may also be taken into consideration.

(C) Information presented by the LEA supporting reasonable deadline extensions in cases where the operator has made a good faith effort to correct a landfill gas migration violation, but the assessment of the extent of migration has revealed a problem of a much larger magnitude than originally anticipated, necessitating a larger control system that will take a correspondingly longer length of time to design and install.

(2) Criterion 2: If the LEA is increasing its enforcement response by taking additional action pursuant to its EPP and, if applicable, a previously issue N&O, then the LEA is considered to be taking appropriate action. If the LEA is not increasing its enforcement response by taking additional action, then the LEA is not considered to be taking appropriate action.

Authority cited: Sections 40502, 43020, 43200, and 43214, Public Resources Code.
Reference: Sections 43209, 43504, 44016, 44305, 44306, 44310, and 45000-45024, Public Resources Code.

Article 2.3.(1) Board Actions Over LEAs

Section 18085. Grounds for Board Actions Over LEAs.

An LEA's failure to fulfill one or more of the following responsibilities and/or obligations under Public Resources Code Division 30, Part 4, Chapter 2 (the "Solid Waste Facilities Chapter of the Waste Management Act") and/or these implementing regulations shall

constitute sufficient ground(s) for any of the board actions set forth in 14 CCR 18086, including but not limited to:

(a) Failure of the LEA to comply with one or more of the Performance Standards referenced in Public Resources Code Section 43214 and/or its implementing regulation, 14 CCR 18081, including but not limited to:

(1) Failure of the LEA to maintain compliance with the certification requirements reference in 14 CCR 18072-75, including but not limited to technical expertise, adequacy of staff resources, adequacy of budget resources, and training;

(2) Failure of the LEA to enforce facility compliance with one or more of the state minimum standards at solid waste facilities within the jurisdiction of the LEA, as referenced in Public Resources Code Section 43214(c);

(3) Failure of the LEA to maintain compliance with and/or implement one or more of the components of the LEA's Enforcement Program Plan, as referenced in 14 CCR 18077; and

(4) Failure of the LEA to perform all applicable duties related to the California Environmental Quality Act.

(b) Failure of the LEA to fulfill one or more of its duties and/or responsibilities as referenced in Public Resources Code Section 43209 and/or its implementing regulations, including but not limited to:

(1) LEA Duties and Responsibilities for Permitting and Closure or Postclosure, as referenced in 14 CCR 18082;

(2) LEA Duties and Responsibilities for Inspections, as referenced in 14 CCR 18083; and

(3) LEA Duties and Responsibilities for Enforcement, as referenced in 14 CCR 18084.

(c) When public health and safety or the environment is threatened, the Board shall, within 10 days of notifying the LEA, become the enforcement agency until another local agency is designated locally, approved and certified by the board pursuant to PRC Section 43214(c).

Authority cited: Sections 40502, 43020, 43200, 43203, and 43214, Public Resources Code.

Reference: Sections 43200-43209, 43214, 43218, 43500-43606, 44001-44017, 44100, 44101, 44300, 44301, 44500-45601, Public Resources Code.

Section 18086. Types of Board Actions Over LEAs.

If the Board finds that an LEA is not fulfilling one or more of its responsibilities and/or obligations under Public Resources Code Division 30, Part 4, Chapter 2 (the "Solid

Waste Facilities Chapter of the Waste Management Act") and/or these implementing regulations, then the Board, in accordance with Public Resources Code Sections 43215 and 43216.5, may take one or more of the following actions:

- (a) Assume responsibility for specified LEA duties by partially or fully decertifying an LEA, either permanently or through a temporary suspension. Such an assumption of responsibility shall only extend to the LEA duties so specified by the board. The board may charge for operations pursuant to PRC 43212(a) while performing enforcement agency duties.
- (b) Conduct more frequent inspections and evaluations within an LEA's jurisdiction.
- (c) Establish a schedule and probationary period for improved performance by an LEA, and/or call for the submission of an evaluation workplan.
- (d) Withdrawal of the Board's approval of the local governing body's designation of the LEA.
- (e) Implement any other measures which may be determined by the Board to be necessary to improve LEA compliance.

Authority cited: Sections 40502, 43020, 43200, 43214, 43215 and 43216.5, Public Resources Code. **Reference:** Sections 40500-40510, 43200-43219, Public Resources Code.

Section 18087. Process for Board Actions Over LEAs.

- (a) Notice: Notice of the hearing shall be sent by first-class mail and deposited in the mail at least thirty (30) days prior to the hearing. The notice shall be sent to the LEA's most current address as specified in the completed Form CIWMB 1000 "Notice of Designation of Local Agency" currently on file with the Board. If written notice has been provided the Board that the LEA is represented by an attorney in the proceeding, the notice of the hearing shall additionally be mailed to such attorney.
- (b) Public Hearing: The hearing shall be open to the public. The Chair or other presiding officer may provide an opportunity during the hearing for nonevidentiary public comment relevant to the matter being heard by the Board. The Chair or other presiding officer may impose reasonable limitations on the number of public speakers commenting, and on the nature and length of the comment period.
- (c) Admission of Evidence: A party shall be afforded the opportunity to present evidence and testimony on all relevant issues. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions.
- (d) Final Action by the Board: The Board's decision will consider the severity of the deviation(s) as related to the potential negative impacts on public health, safety or the

environment. The Board will announce its decision at the conclusion of the hearing. A written decision will be prepared thereafter, which shall include a statement of the factual and legal basis of the decision. A copy of the written decision shall be sent to the LEA in the same manner as set forth in subsection (a), above, within ten (10) days of the conclusion of the hearing.

Authority cited: *Sections 40502, 43020, 43200, 43214, 43215 and 43216.5, Public Resources Code.*

Reference: *Sections 40500-40510, 43200-43219, Public Resources Code.*

Section 18088. Board Acting as Enforcement Agency.

The Board, when acting as the enforcement agency, may enter into agreements or contracts at its discretion with any certified local enforcement agency for the purpose of delegating its enforcement agency duties within any jurisdiction until a local agency is designated, approved and certified by the Board.

Authority cited: *Sections 40502, 43020, and 43200, Public Resources Code.*

Reference: *Sections 43216 and 43216.5, Public Resources Code.*

Article 2.3 (2) LEA Grants

Section 18090. Purpose and Scope.

The purpose of the LEA Grant Program is to provide grants to LEAs to carry out the solid waste facilities permit and inspection program.

Authority cited: *Sections 43231, Public Resources Code.*

Reference: *Sections 43230 and 43232, Public Resources Code.*

Section 18090.1. Grant Eligibility.

Grants shall be awarded only to LEAs and regional LEAs that are certified pursuant to Article 2.1 of this Chapter. Eligibility for a grant is dependent on Board approval of final accountings for previously awarded LEA Grants.

Authority cited: *Sections 43231, Public Resources Code.*

Reference: *Sections 43230 and 43232, Public Resources Code.*

Section 18090.2. Grant Award.

(a) The total amount of grants made by the Board pursuant to this Article shall not exceed, in any fiscal year, the amount specified by law.

(b) The total grant amount shall be distributed among the applicants on a pro-rata basis with each LEA receiving a Board established base grant, in no event less than \$15,000, plus an additional amount based on the population of the jurisdictions served by the LEA and the number of active, permitted solid waste facilities located within those jurisdictions.

(c) Each Regional LEA shall receive a base grant multiplied by the number of counties for which the LEA is responsible, plus an additional amount based on the population of the jurisdictions served by the Regional LEA and the number of active, permitted solid waste facilities located within those jurisdictions.

(d) All population statistics will be obtained through the most current annually revised Department of Finance Report on Population Estimates for California Cities and Counties.

Authority cited: *Sections 43231, Public Resources Code.*

Reference: *Sections 43230 and 43232, Public Resources Code.*

Section 18090.3. Use of LEA Grant Funds.

(a) LEA grant funds shall be used exclusively for the purpose of carrying out the approved solid waste facilities permit and inspection program. Any unauthorized use of LEA grant funds may result in the termination of the grant agreement, repayment of funds and/or return of all unused portions of the grant to the Board.

(b) Any unused portions of an LEA grant awarded pursuant to this Article for a designated fiscal year shall be returned to the Board.

Authority cited: *Sections 43231, Public Resources Code.*

Reference: *Sections 43230 and 43232, Public Resources Code.*

Section 18091.1. Grant Application.

(a) Applications for LEA grants will be accepted by mail during the time period specified in the application package. Applications sent by facsimile transmission or hand-delivered applications will not be accepted.

(b) An LEA or Regional LEA that is eligible for a grant award pursuant to Section 18090.1 of this Chapter, shall submit a grant application to the Board. The purpose of the grant application is to identify the local agency positions authorized to administer the grant program and to provide the Board the basis on which to evaluate appropriate grant use. The grant application shall include the following:

(1) A Statement of Use describing the program's goals or objectives and stating how the grant funds will be used to implement the program;

(2) A Budget Report listing all proposed grant expenditures, which may include the cost of staffing, third party contracts, training, travel and purchase of equipment or materials; and

(3) A certified copy of an approved resolution from each applicant's governing body authorizing submittal of the application and identifying the position of the individual who is authorized to execute all agreements and other documents necessary to carry out the program.

Authority cited: Sections 43231, Public Resources Code.
Reference: Sections 43230 and 43232, Public Resources Code.

Section 18092. Review of Grant Application.

- (a) Board staff shall review each grant application to verify that it is complete and satisfies the criteria contained within Section 18091.1 of this Chapter.
- (b) Board staff may request additional information related to the grant application required pursuant to Section 18091.1 of this Chapter. The applicant will have ten (10) working days, or an additional time period specified by Board staff to submit the requested information.

Authority cited: Sections 43231, Public Resources Code.
Reference: Sections 43230 and 43232, Public Resources Code.

Section 18093. Grant Requirements.

- (a) The grant recipient and the Board shall enter into a written grant agreement that defines the grant term; contains a description of the approved program; and ensures compliance with the conditions specified in this Article.
- (b) The grant recipient shall submit a final report on or before one hundred-twenty (120) days following completion of the grant cycle. The report shall include any amendments to the grant program; provide a description of the implementation of the program; and, provide detailed expenditure information that enables the Board to determine the specific use of all grant funds.
- (c) Grant recipients shall comply with all applicable federal, state and local laws, ordinances, regulations and permits.

Authority cited: Sections 43231, Public Resources Code.
Reference: Sections 43230 and 43232, Public Resources Code.

Section 18093.1. Payment of Grant Funds.

- (a) Grants will be awarded annually each year subject to the availability of funds.
- (b) Grant recipients will be advanced ninety percent (90%) of their grant funds. All grant funds must be placed in an interest-bearing account with a fully insured financial institution. The grantee shall track interest accrued on the advance payment. Interest earned from the account shall be used only for eligible grant related expenses or returned to the Board.
- (c) The Board will withhold ten percent (10%) of the total grant funds until satisfactory completion of the project and approval of grantee's final report and payment request.

Authority cited: Sections 43231, Public Resources Code.
Reference: Sections 43230 and 43232, Public Resources Code.

Section 18094. Auditing.

(a) The Board, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Grant. Grant recipients shall maintain such records for possible audit for a minimum of three (3) years after final payment unless a longer period of records retention is stipulated, or until resolution of issues which may arise as a result of any audit, litigation, or claim negotiation.

(b) Grant recipients shall maintain an accounting system which utilizes generally accepted accounting principles and practices. In addition to accounting records, all source documents associated with the accounting records shall be maintained. Source documents include, but are not limited to, bid summaries, contracts with the grant recipient, change orders showing approval by a city or county engineer, purchase orders, invoices, paid warrants, time sheets, labor distribution reports and payroll registers.

Authority cited: *Sections 43231, Public Resources Code.*

Reference: *Sections 43230 and 43232, Public Resources Code.*

Article 3.0. Regulatory Tier Requirements

Section 18100. Scope.

(a) This Article sets forth the method of application for a tiered solid waste facilities permit, procedures for review and action on an application package, and other requirements associated with regulatory tiers. This Article also includes provisions regarding permit maintenance following issuance and other requirements associated with solid waste handling operations. Similar provisions regarding a full solid waste facilities permit can be found in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2.0 - 3.2 of the California Code of Regulations (commencing with Section 21570).

(b) The provisions of this Article shall apply only to those operations and facilities as specified in the minimum standards set forth in Chapters 3.0, 3.1 or 3.2 of Division 7 of this Title.

(c) The submittal of an enforcement agency notification (in accordance with Section 18103) or issuance of a tiered permit supersedes any previously submitted enforcement agency notification or issued tiered permit.

(d) Specific provisions relating to the different types of regulatory tiers may be found below as follows:

Table: Permit Tier and Section Number Found

Permit Tier	Section Number
1) Excluded	Section 18102
(2) Notification of Enforcement Agency	Sections 18103 – 18103.3
(3) Registration Permit	Sections 18104 - 18104.9; and
(4) Standardized Permit	Sections 18105 - 18105.11

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

Reference: Sections 43020, 43021, and 43000-45802, *Public Resources Code*.

Section 18101. Definitions.

Unless incorporated by reference or by statute, the definitions in this Article govern only the construction of this Article.

(a) "Acceptance for filing" means the enforcement agency has determined that the application is complete and correct and the specified permit action time frames contained in this Article commence.

(b) "Annual loading" is the maximum amount of waste/material to be handled by an operation annually.

(c) "Change in operation" means any change to a facility's operations noted in the application, including, but not limited to, change in facility description, change in materials handled, change in quantity of material handled, or change in operating hours in which the operator intends to operate outside of normal business hours.

(d) "Complete" means all information required as part of a solid waste facilities permit application submitted pursuant to this Article has been provided.

(e) "Correct" means all information provided by the applicant as part of a solid waste facilities permit application submitted pursuant to this Article is accurate, exact, and fully provides the applicable filing requirement information for the solid waste facility for which a permit is being sought.

(f) A "full permit" is a solid waste facilities permit obtained pursuant to procedures set forth in Article 3.1 of this Chapter.

(g) A "location map" means a map showing the general location of the operation at a scale size minimally equivalent to 1:24,000 USGS topological quadrangle.

(h) "Operation" means the receipt and processing of solid waste.

(i) "Peak loading" is the largest projected waste/material quantity to be received by an operation on any day of operation.

(j) "Regulatory tier" is a type of regulatory oversight pursuant to procedures set forth in this Article and Article 3.1. Tier types include: excluded, enforcement agency notification, registration permit, standardized permit, and full permit.

(k) A "site map" means a map showing the existing or planned layout of the operations, including, but not limited to, operations areas and their relationships to property boundaries, buffer zones, adjacent land uses, proposed drainage systems, any excavation areas, site access, and any other portions of the site dedicated to a specific use. The site map shall be at a scale size of 1" = 200', and indicate the zoning within 1000', of the facility. Where feasible, structures located on adjacent properties should be identified on the site map or location and distances to the nearest structures shall be included.

(l) A "tiered permit" is a type of solid waste facilities permit obtained pursuant to procedures set forth in Articles 3.0 and 3.1 of this Chapter. A tiered permit is a solid waste facilities permit other than a full permit with reduced application and permit processing requirements.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18102. Excluded Solid Waste Handling.

Operators of excluded operations designated by the minimum standards set forth in Division 7 of this Title are not required to notify the enforcement agency or submit an application for a solid waste facilities permit. Nothing in this Section precludes the enforcement agency or the Department from inspecting an excluded operation to verify that the operation is being conducted in a manner that qualifies as an excluded operation or taking any appropriate enforcement action.

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

Reference: *Sections 43020, 44100(a), 44101(a), and 45200, Public Resources Code.*

Section 18103. Enforcement Agency Notification

(a) The enforcement agency notification provisions of this Article shall apply only to operations as specified in the minimum standards set forth in Chapters 3, 3.1 or 3.2 of Division 7 of this Title.

(b) Sections 18103.1 through 18103.3 establish the requirements for compliance with enforcement agency notification as follows:

(1) Filing Requirements Section 18103.1;

(2) Record Keeping Requirements Section 18103.2; and

(3) Termination of Operation Section 18103.3.

(c) Operations authorized to use the enforcement agency notification tier are required to operate in accordance with the minimum standards set forth in Chapters 3, 3.1 or 3.2 of Division 7 applicable to that operation.

(d) Nothing in this Section precludes the enforcement agency or the Department from

the following: inspecting an operation to verify that the operation is being conducted in a manner that qualifies for the enforcement agency notification tier; inspecting to verify that the operation is in compliance with the minimum standards; or, taking any appropriate enforcement action, including the use of a 'notice and order.'

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

Reference: *Sections 43020, 44100(a), 44101(a), and 45200, Public Resources Code.*

Section 18103.1. Filing Requirements.

(a) Any operator proposing to engage in solid waste handling pursuant to an enforcement agency notification shall notify the enforcement agency of its intent to operate in writing prior to commencing operations. This written notification shall be legible and include the following information:

(1) The name, address, and phone number of the proposed operation; the name, address, and phone number where the operator can be contacted if these differ from the operation site; and, the name, address, and phone number of the owner if these differ from the operator.

(2) The Section in Chapters 3, 3.1 or 3.2 of Division 7 of this Title authorizing eligibility for this tier and a description of the facility's operations, including but not limited to, volume and types of wastes/material handled, peak and annual loading, and hours of operation. Secondary material processing operations shall include the operation's boundary area.

(3) Documentation that the operator has notified the local planning department with jurisdiction over the site of its intent to commence operations. Documentation may include proof of compliance with CEQA, correspondence from the local planning department that compliance with the California Environmental Quality Act is not required for the operation to obtain local land use approval or written notice to the local planning department of the operator's intent to commence operations.

(4) A statement by the owner and operator certifying under penalty of perjury that the information which they have provided is true and accurate to the best of their knowledge and belief.

(b) The notification shall be mailed to the enforcement agency "return receipt requested."

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

Reference: *Sections 43020, Public Resources Code.*

Section 18103.2. Record Keeping Requirements.

The enforcement agency shall retain the notification received pursuant to Section 18103.1 which shall be publicly available during normal business hours. The enforcement agency shall forward a copy of the notification to the Department within

five days of receipt. The enforcement agency shall retain a copy of the notification for a minimum of one year after the facility is known to have ceased operations.

Authority cited: *Sections 40502 and 43020, Public Resources Code.*
Reference: *Sections 43020, Public Resources Code.*

Section 18103.3. Termination of Operation.

Any person intending to cease operations shall notify the enforcement agency in writing at least 15 days prior to the cessation of operations.

Authority cited: *Sections 40502 and 43020, Public Resources Code.*
Reference: *Sections 43020, Public Resources Code.*

Section 18104. Registration Permit.

(a) The registration permit provisions of this Article shall apply only to solid waste facilities as specified in the minimum standards set forth in Chapters 3, 3.1 or 3.2 of Division 7 of this Title.

(b) A registration permit shall be deemed to incorporated by reference, as terms and conditions of the permit, all minimum standards applicable to it, as set forth in Chapters 3, 3.1 or 3.2 of Division 7.

(c) Sections 18104.1 through 18104.9 establish the requirements for a registration permit as follows:

Table: Registration Permit Requirements and Section Number

Registration Permit Requirements	Section Number
(1) Filing Requirements	Section 18104.1;
(2) Enforcement Agency Processing Requirements	Section 18104.2;
(3) Record Keeping Requirements	Section 18104.3;
(4) Completeness Appeal	Section 18104.4;
(5) Change in Operation	Section 18104.5;
(6) Change in Owner	Section 18104.6;
(7) Permit Review & Reissuance	Section 18104.7;
(8) Suspend/Revoke	Section 18104.8, and
(9) Voiding of a Registration Permit	Section 18104.9.

Authority cited: Sections 40502, 43020, and 43021, Public Resources Code.
Reference: Sections 43020, 43021, 43000-45802, and 50000-50002, Public Resources Code.

Section 18104.1. Filing Requirements.

Any operator proposing to operate a solid waste facility pursuant to a registration permit shall file an application using form CIWMB 83 "Registration Permit Application" (rev. 12/96), which is incorporated herein by reference, with the enforcement agency. The application shall be accompanied by the fee specified by the enforcement agency pursuant to Public Resources Code Section 44006(c). (See Appendix A.) This application shall contain the following information:

- (a) The name and address of the enforcement agency, and the Section in Chapters 3, 3.1 or 3.2 of Division 7 of this Title authorizing eligibility for this tier.
- (b) General description of the facility including, but not limited to name, location, site map, and location map.
- (c) Facility information, including, but not limited to, volume and type of waste/material handled, peak and annual loading, hours of operation, traffic, facility size, site capacity, and operating area.
- (d) Operator information, including identification of the land owner, his/her address and telephone number; identification of the facility operator, his/her address and telephone number; and the address(es) at which process may be served upon the operator and owner.
- (e) Conformance finding information as follows:
 - (1) Until a countywide or regional agency integrated waste management plan has been approved by the Department, the application shall include statements that: the facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code Section 50000; and that the facility is consistent with the city or county General Plan.
 - (2) After a countywide or regional agency integrated waste management plan has been approved by the Department, the application shall include a statement that: the facility is identified in either the countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling Element for the jurisdiction to be identified in any of these elements pursuant to Public Resources Code Section 50001.
- (f) The owner and operator shall each certify under penalty of perjury that the information which they have provided is true and accurate to best of their knowledge and belief.
- (g) Evidence that the application form was provided to the director of the local agency that oversees local use planning for the jurisdiction in which the site is located.

(h) List of all public hearings and other meetings open to the public that have been held or copies of notices distributed that are applicable to the proposed solid waste facilities permit action.

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

Reference: *Sections 43020, 43021, 43000-45802, and 50000-50002, Public Resources Code.*

Section 18104.2. Enforcement Agency Processing Requirements.

(a) Upon receipt of an application filed pursuant to Section 18104.1, the enforcement agency shall mark the application with the date of receipt.

(b) The enforcement agency shall notify every person who has submitted a written request to be notified of any application.

(c) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of Section 18104.1.

(d) If the enforcement agency finds the application is complete and correct pursuant to Section 18104.1, it shall be accepted for filing and stamped with the date and time of acceptance.

(e) The enforcement agency shall provide notice pursuant to Title 27 Section 21660.3 prior to issuance of the solid waste facilities permit.

(f) When an application is accepted for filing, the enforcement agency shall issue a registration permit by mailing an executed form CIWMB 81 "Registration Permit" (rev. 1/95), which is incorporated herein by reference, to the applicant. Form CIWMB 81, along with a copy of the accepted application, must be mailed to the applicant within five days of filing. (See Appendix A)

(g) The enforcement agency shall provide a copy of the registration permit to the Department and to any person who has so requested in writing.

(h) If the enforcement agency finds that the application is not complete and correct pursuant to 18104.1, it shall not be accepted for filing. A copy of the rejected application accompanied by an explanation shall be mailed to the applicant within five days.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18104.3. Record Keeping Requirements.

(a) The enforcement agency shall maintain a current list of all pending applications at its offices. The list shall be publicly available during normal business hours.

(b) Written public comments on an application shall be retained by the enforcement agency.

(c) The enforcement agency shall forward copies of any written public comments received on an application to the Department with the registration permit submitted pursuant to Section 18104.2(f).

(d) Subsequent to the transmittal of the registration permit to the Department, the enforcement agency shall within five days of receipt provide a copy of any additional written public comments to the Department unless the comment clearly states that a copy has already been provided to the Department.

(e) If an application is denied, the enforcement agency shall retain public comments received on that application for a period of 2 years. If a previously denied permit is approved, all comments received shall be forwarded to the Department with the copy of the registration permit submitted under subsection (c) above.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18104.4. Completeness Appeal.

If an application is determined to be incomplete, the applicant may appeal that determination to the enforcement agency within 15 days of the date that notification was received. Such an appeal must be in writing and specify the grounds for the appeal. A final written determination on the appeal shall be made by the hearing panel or hearing officer designated pursuant to Section 44800 of the Public Resources Code, no later than 60 days after receipt of the applicant's appeal.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18104.5. Change in Operation.

A new registration permit application shall be submitted when an operator proposes a change in operation or to transfer his/her permit for the same operation to another operator, or if the enforcement agency determines that a change in facility operations has occurred.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18104.6. Change in Owner.

(a) An operator shall notify the enforcement agency in writing if a person, who owns property on which the solid waste facility is located, is encumbering, selling, transferring, or conveying the property, or part thereof; or allowing the property, or part thereof, to be encumbered, sold, transferred, or conveyed. The operator shall notify the enforcement agency at least 15 days prior to such action by the owner, or within 7 days of receiving notice of such action by the owner, whichever comes first. The enforcement agency shall transmit a copy of the notification to the Department within five days of receipt.

(b) Any information provided pursuant to subdivision (a) of this Section shall not be a matter of public record and shall be considered confidential until such time as the owner's encumbering, selling, transferring, or conveying of the property, occurs.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code and Section 6255, Government Code.*

Section 18104.7. Permit Review & Reissuance.

(a) Every registration permit shall be reviewed at least once every five years from the date of issuance or reissuance.

(b) The enforcement agency shall notify the operator 60 days before the registration permit is due for review.

(c) No fewer than 35 days before the registration permit is due for review, the operator shall submit either a certification that the information contained in the controlling registration permit is current, or shall file a new application pursuant to Section 18104.1.

(d) If an operator files a certification as specified in subsection (c) above or a new application pursuant to Section 18104.1, the enforcement agency shall follow the procedures set forth in Sections 18104.2 and 18104.3.

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

Reference: *Sections 43020, 43021, and 44015, Public Resources Code.*

Section 18104.8. Suspend/Revoke.

Any registration permit may be suspended or revoked by the enforcement agency for cause pursuant to Section 44305 or 44306 of the Public Resources Code. Any such action shall be undertaken by the enforcement agency using the procedures set forth in Articles 2, Chapter 4 of the Public Resources Code (Section 44305 et seq.).

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

Reference: *Sections 43020, 43021, and 44305-44310, Public Resources Code.*

Section 18104.9. Voiding of a Registration Permit.

Every registration permit shall be void 30 days after cessation of operations. Any operator who intends to cease operations shall notify the enforcement agency of his/her last proposed date of operation at least 15 days in advance. The enforcement agency shall forward a copy of this notification to the Department within 7 days. "Cessation of operations" does not include temporary operational shutdowns which are seasonal or intermittent in nature.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105. Standardized Permit.

(a) The standardized permit provisions of this Article shall apply only to solid waste facilities as specified in the minimum standards set forth in Chapters 3, 3.1 or 3.2 of Division 7 of the Title.

(b) A standardized permit obtained pursuant to this Article shall contain only those terms and conditions applicable to the type of facility receiving it as set out in the minimum standards for that type of facility.

(c) Sections 18105.1 through 18105.11 establish the requirements for a standardized permit as follows:

Table: Requirements for Standardized Permits

Standardized Permit Requirements	Section Number
(1) Filing Requirements	Section 18105.1;
(2) Enforcement Agency Processing Requirements	section 18105.2;
(3) Record keeping Requirements	Section 18105.3;
(4) Completeness Appeal	Section 18105.4;
(5) Department Processing Requirements	Section 18105.5;
(6) Appeal of Decision	Section 18105.6;
(7) Change in Operation	Section 18105.7;
(8) Change in Owner	Section 18105.8;
(9) Permit Review	Section 18105.9;
(10) Suspend/Revoke	Section 18105.10; and
(11) Voiding of a Standardized Permit	Section 18105.11.

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

Reference: Sections 43020, 43021, and 43000-45802, Public Resources Code.

Section 18105.1. Filing Requirements.

Any operator proposing to operate a solid waste facility eligible for a standardized permit shall file an application in duplicate with the enforcement agency accompanied by the fee specified by the enforcement agency pursuant to Public Resources Code Section 44006(c). This application shall contain the following information:

(a) The name and address of the enforcement agency, and the Section in Chapters 3, 3.1 or 3.2 of Division 7 of this Title authorizing eligibility for this tier.

(b) General description of the facility including, but not limited to name, location, site map, and location map.

(c) Facility information, including, but not limited to, volume and types of waste/material handled, peak and annual loading, hours of operation, traffic, facility size, site capacity, and operating area.

(d) Operator information, including identification of the land owner, his/her address and telephone number; identification of the facility operator, his/her address and telephone number; and the address(es) at which process may be served on the operator and owner.

(e) A Report of Facility Information that contains all of the information required by the applicable Section(s) of Article 3.2, Chapter 5, of this Division.

(f) One of the following:

(1) Evidence that there has been compliance with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, regarding the facility; or,

(2) Information on the status of the application's compliance with the California Environmental Quality Act regarding the facility. Once there has been compliance with the California Environmental Quality Act regarding the facility, evidence of compliance shall be submitted to the enforcement agency.

(g) Conformance finding information as follows:

(1) Until a countywide or regional agency integrated waste management plan has been approved by the Department, the application shall include statements that: the facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code Section 50000; and that the facility is consistent with the city or county General Plan.

(2) After a countywide or regional agency integrated waste management plan has been approved by the Department, the application shall include a statement that: the facility is identified in either the countywide siting element, the nondisposal facility element, or in the Source Reduction and Recycling Element for the jurisdiction in which it is located; or, that the facility is not required to be identified in any of these elements pursuant to Public Resources Code Section 50001.

(h) The owner and operator shall each certify under penalty of perjury that the information provided is true and accurate to the best of their knowledge and belief.

(i) Evidence that the application form was provided to the director of the local agency

that oversees local use planning for jurisdiction in which the site is located.

(j) List of all public hearings and other meetings open to the public that have been held or copies of notices distributed that are applicable to the proposed solid waste facilities permit action.

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

Reference: *Sections 43020, 43021, 43000-45802, and 50000-50002, Public Resources Code.*

Section 18105.2. Enforcement Agency Processing Requirements.

(a) Upon receipt of an application filed pursuant to Section 18105.1, the enforcement agency shall mark the application with the date of receipt.

(b) The enforcement agency shall notify every person who has submitted a written request to be notified of any application.

(c) Within 30 days of receipt, the enforcement agency shall review the application to determine whether it meets the requirements of Section 18105.1.

(d) If the enforcement agency finds the application is complete and correct pursuant to 18105.1(a-e) and (g-h), it shall be accepted for filing.

(e) The application shall be stamped with the date and time of acceptance.

(f) If the enforcement agency finds that the application is not complete and correct pursuant to 18105.1(a-e) and (g-h), it shall not be accepted for filing. A copy of the rejected application accompanied by explanation shall be mailed to the applicant within five days.

(g) Within fifteen days of acceptance of an application for filing:

(1) The enforcement agency shall evaluate the information provided in the application and the proposed facility to determine whether or not the facility will be able to operate in compliance with the applicable minimum standards and standardized solid waste facilities permit terms and conditions.

(2) The enforcement agency shall provide notice pursuant to Title 27 Section 21660.3.

(3) If the enforcement agency finds that the application and facility meet the requirements set forth in subdivision (g)(1) of this Section then the enforcement agency shall forward the proposed standardized permit, application package, and the results of any analysis to the Department. The enforcement agency shall further provide the applicant with a copy of the proposed standardized permit submitted to the Department. In addition, the enforcement agency shall provide a copy of the proposed standardized permit to any person who has so requested in writing.

(4) If the enforcement agency finds that the application or facility do not meet the

requirements set forth in subdivision (g)(1) of this Section, the enforcement agency shall reject the application. A copy of the rejected application accompanied by an explanation shall be mailed to the applicant.

(h) If evidence of compliance with the California Environmental Quality Act, as required by Section 18105.1(f), has not been submitted within 15 days of acceptance of the application as complete, then the decision required by Section 18105.2(g) shall be held in abeyance until compliance with this requirement has been demonstrated. Unless waived by the applicant pursuant to Public Resources Code Section 44008, if evidence of compliance with the California Environmental Quality Act has not been submitted within 120 days of the application's acceptance for filing, the enforcement agency shall reject the application and not issue the standardized permit.

(i) Once the Department has concurred in the issuance of the proposed standardized permit, pursuant to Section 18105.5, the enforcement agency shall issue the standardized permit.

(j) If the Department objects to the proposed standardized permit, the enforcement agency shall notify the applicant in writing of the Department's decision, and the reasons for that decision, within five days of receipt of that decision.

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

Reference: Sections 43020, 43021, and 43000-45802, *Public Resources Code*.

Section 18105.3. Record Keeping Requirements.

(a) The enforcement agency shall maintain a current list of all pending applications at its offices. The list shall be publicly available during normal business hours.

(b) Written public comments on an application shall be retained by the enforcement agency.

(c) The enforcement agency shall forward copies of any written public comments received on a pending application to the Department with the proposed standardized permit submitted pursuant to Section 18105.2(g).

(d) Subsequent to the transmittal of the proposed standardized permit, the enforcement agency shall within five days of receipt provide a copy of any additional written public comments to the Department, unless the comment clearly states that a copy has already been provided to the Department.

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

Reference: Sections 43020, 43021, and 43000-45802, *Public Resources Code*.

Section 18105.4. Completeness Appeal.

If an application is determined to be incomplete, the applicant may appeal that determination to the enforcement agency within 15 days of the date that notification was received. Such an appeal must be in writing and specify the grounds for the appeal. A

final written determination on the appeal shall be made by the hearing panel or hearing officer designated pursuant to Section 44800 of the Public Resources Code, no later than 60 days after receipt of the applicant's appeal.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105.5. Department Processing Requirements.

(a) The Department shall mark the proposed standardized permit with the date of receipt.

(b) The Department shall evaluate the application package and the proposed standardized permit for compliance with the requirements set forth by Section 18105.1 and 18105.2(g).

(c) Within 30 days of receipt of a proposed standardized permit, the Department shall either concur in or object to the issuance of the proposed standardized permit.

(d) If the proposed standardized permit contains terms and conditions not authorized by the minimum standards and the permit is otherwise in conformance with these regulations, any additional unauthorized terms and conditions shall be stricken. The Department shall concur in the edited standardized permit.

(e) Within 7 days of the decision to concur in or object to a proposed standardized permit, the Department shall notify the enforcement agency of its determination in writing. If the Department objects, the reasons for the objection shall be provided to the enforcement agency.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105.6. Appeal of Decision

(a) Any applicant may appeal the decision of the enforcement agency taken pursuant to Section 18105.2(g)(3) or of the Department taken pursuant to Section 18105.5 to the enforcement agency within 15 days of the date that the decision was received. Such an appeal must be in writing and specify the grounds for the appeal. A final written determination on the appeal shall be made by the hearing panel or hearing officer designated pursuant to Section 44800 of the Public Resources Code, no later than 60 days after receipt of the applicant's appeal.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105.7. Change in Operation.

A new standardized permit application shall be submitted when an operator proposes a change in operation or to transfer his/her permit for the same operation to another

operator, or if the enforcement agency determines that a change in facility operations has occurred.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105.8. Change in Owner.

(a) An operator shall notify the enforcement agency in writing if a person, who owns property on which the solid waste facility is located, is encumbering, selling, transferring, or conveying the property, or part thereof; or allowing the property, or part thereof, to be encumbered, sold, transferred, or conveyed. The operator shall notify the enforcement agency at least 15 days prior to such action by the owner, or within 7 days of receiving notice of such action by the owner, whichever comes first. The enforcement agency shall transmit a copy of the notification to the Department within five days of receipt.

(b) Any information provided pursuant to subdivision (a) of this Section shall not be a matter of public record and shall be considered confidential until such time as the owner's encumbering, selling, transferring, or conveying of the property, occurs.

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

Reference: *Section 6255, Government Code; and, Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Section 18105.9. Permit Review and Reissuance.

(a) Every standardized permit shall be reviewed at least once every five years from the date of issuance or reissuance.

(b) The enforcement agency shall notify the operator 60 days before the standardized permit is due for review.

(c) No fewer than 35 days before the standardized permit is due for review, the operator shall submit either a certification that the information contained in the controlling solid waste facilities permit is current, or shall file a new application pursuant to Section 18105.1.

(d) If an operator files a certification as specified in subsection (c) above or a new application pursuant to Section 18105.1, the enforcement agency shall follow the procedures set forth in Sections 18105.2 and 18105.3 and the Department shall follow the procedures set forth in Section 18105.5.

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

Reference: *Sections 43020, 43021, and 44015, Public Resources Code.*

Section 18105.10. Suspend/Revoke.

Any standardized permit may be suspended or revoked by the enforcement agency for cause pursuant to Section 44305 or 44306 of the Public Resources Code. Any such

action shall be undertaken by the enforcement agency using the procedures set forth in Articles 2 and 3, Chapter 4 of the Public Resources Code (Section 44305 et seq.).

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

Reference: *Sections 43020, 43021, and 44305-44310, Public Resources Code.*

Section 18105.11. Voiding of a Standardized Permit.

Every standardized permit shall be void 30 days after cessation of operations. Any operator who intends to cease operations shall notify the enforcement agency of his/her last proposed date of operation at least 15 days in advance. The enforcement agency shall forward a copy of this notification to the Department within 7 days. "Cessation of operations" does not include temporary operational shutdowns which are seasonal or intermittent in nature.

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

Reference: *Sections 43020, 43021, and 43000-45802, Public Resources Code.*

Article 3.1 Application for Solid Waste Facilities Permits

Section 18200. Scope. [Repealed]

Section 18200.1. Definitions. [Repealed]

Section 18201. Form of Application and Supporting Documents (Application Package). [Repealed.]

Section 18202. Amendments to Application. [Repealed]

Section 18203. Filing of Application and Transmittal of Copies. [Repealed]

Section 18204. Public Notice and Comment. [Repealed]

Section 18205. Investigation of Application.

Section 18206. Environmental Review.

Section 18207. Proposed Permit; Board Review. [Repealed]

Section 18208. Issuance of Permit; Final Environmental Determination.

(a) Upon compliance with the Act and this Article, and upon the concurrence of the board, the enforcement agency may make findings and issue the permit as provided in subsection (a) of Public Resources Code Section 44014. The permit shall specify the person authorized to operate the facility and the boundaries of the facility. The permit shall contain such conditions as are necessary to specify a design and operation for which the applicant has demonstrated in the proceedings before the enforcement agency and the board the ability to control the adverse environmental effects of the facility.

(1) As used herein, "design" means the layout of the facility (including numbers and types of fixed structures), total volumetric capacity of a disposal site or total throughput

rate of a transfer/processing station, transformation facility, or composting facility vehicular traffic flow, and patterns surrounding and within the facility, proposed contouring, and other factors that may be considered a part of the facility's physical configuration.

(2) As used herein, "operation" means the procedures, personnel, and equipment utilized to receive, handle and dispose of solid wastes and to control the effects of the facility on the environment.

(b) (Reserved)

(c) Copies of the permit (including conditions specified therein), findings, and any document setting forth the enforcement agency's final environmental determination shall be provided the board and any person who has requested in writing that such copies be provided.

Comment: In filing an application for a new permit or permit revision, the applicant will be required to specify the proposed design and operation of the facility, to describe any anticipated environmental consequences of the specified design and operation, and to propose measures to minimize and mitigate any adverse environmental effects. The permit that is issued would specify the measures found by the agency to be necessary, for a facility of given design and operation, to satisfy the requirements of the Act for protection of the environment. Accordingly, the permit would limit the facility to the design and operation that corresponds to those measures. Any significant change in design or operation would require revision of the permit. See Section 18211. In order to avoid the need to revise a permit for each minor change in operation, the conditions should be drafted to accommodate fluctuations without requiring a permit revision, so long as such changes do not necessitate additional measures to control their environmental effects.

Authority cited: *Sections 40502 and 43200, Public Resources Code.*

Reference: *Sections 44012 and 44014, Public Resources Code.*

Section 18209. Denial of Permit.

(a) The enforcement agency shall deny the permit when any of the following occur:

(1) The enforcement agency determines that the proposed facility is not consistent with the county solid waste management plan or cannot conform to the state standards.

(2) The Board has objected to the proposed permit. and either:

(A) there are less than 45 days remaining before the statutory deadline for action on the application and the applicant declines to waive the deadline; or

(B) the enforcement agency determines that it will be impossible to propose a permit that will be mutually satisfactory to the enforcement agency, the board, and the applicant. The enforcement agency may deny the permit under any other circumstances

provided by law.

(b) Upon denial of a permit, the enforcement agency shall give written notice of the denial to the applicant, the board, and any other person who has requested in writing that such notice be given. Notice to the applicant shall be accompanied by a form request for a hearing, which the applicant may use to obtain a hearing before the hearing panel or hearing officer.

(c) An applicant who desires a hearing on the denial of a permit shall file with the enforcement agency a written request for a hearing. The enforcement agency shall provide the board with copies of the request, the statement of issues, and the notice of defense within five business days of service upon the applicant.

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

Reference: *Sections 44007-44017 and 44300, Public Resources Code.*

Section 18210. Notice of Operation Prior to August 15, 1977. [Repealed]

Section 18211. Application for Revision of a Permit. [Repealed]

Section 18212. Reinstatement of Suspended and Revoked Permits. [Repealed]

Section 18213. Review of Permits. [Repealed]

Section 18215. Exemptions from Requirement of a Permit. [Repealed]

Section 18216. Notice of Change of Address. [Repealed]

Section 18217. Notice of Change of Ownership of Property. [Repealed]

Article 3.1.1 Temporary Solid Waste Facilities Permits [Repealed]

Article 3.2. Reports of Facility Information

Section 18220. Report of Green Composting Site Information. [Repealed]

Section 18221. Report of Station Information. [Repealed]

Section 18221.5. Facility Plan.

Each operator of a Medium Volume Transfer/Processing Facility, a Direct Transfer Facility, or a Secondary Material Processing Facility that is required to obtain a Registration Permit, as set forth in Sections 17403.4, 17403.6, 17403.3.3 and Title 14, Division 7, Chapter 5.0, Article 3.0, (commencing with Section 18100) shall, at the time of application, file a Facility Plan or "Plan" with the EA as required in Section 17403.8 of this Title. In order to maintain the permit, the operator must file amendments as necessary to maintain the accuracy of the Facility Plan required in Section 17403.8 of this Title. Such amendments, or lack thereof, may become the basis for changes in the permit or for revocation of the permit. A Plan shall contain the following:

- (a) name(s) of the operator, owner, and the company they represent, if applicable;
- (b) schematic drawing of the building and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;
- (c) descriptive statement of the manner in which activities are to be conducted at the facility;
- (d) days and hours that the facility is to operate. If the hours of waste receipt differ from the hours of material processing, each set of hours may be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (e) total acreage contained within the operating area;
- (f) facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;
- (g) information showing the types and the daily quantities of solid waste to be received. If tonnage was figured from records of cubic yards, include the conversion factor used;
- (h) description of the methods used by the facility to comply with each state minimum standard contained in Sections 17406.1 through 17419.2;
- (i) anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;
- (j) description of provisions to handle unusual peak loading;
- (k) description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (l) planned method for final disposal of the solid waste;
- (m) planned method for the storage and removal of salvaged material;
- (n) resume of management organization which will operate the facility.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 18221.5.1. In-Vessel Digestion Facility Plan

Each operator of a Medium Volume In-vessel Digestion Facility that is required to obtain a Registration Permit, as set forth in Section 17896.12 and Title 14, Division 7, Chapter 5.0, Article 3.0, (commencing with Section 18100) shall, at the time of application, file an

In-vessel Digestion Facility Plan ("Plan") with the EA as required in Section 17896.14 of this Title. In order to maintain the permit, the operator must file amendments as necessary to maintain the accuracy of the Plan. Such amendments, or lack thereof, may become the basis for changes in the permit or for revocation of the permit. The Plan shall contain the following:

- (a) name(s) of the operator, owner, and the company they represent, if applicable;
- (b) schematic drawing of the building and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;
- (c) descriptive statement of the manner in which activities are to be conducted at the facility;
- (d) days and hours that the facility is to operate. If the hours of waste receipt differ from the hours of material processing, each set of hours may be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (e) total acreage contained within the operating area;
- (f) facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;
- (g) information showing the types and the daily quantities of solid waste to be received. If tonnage was figured from records of cubic yards, include the conversion factor used;
- (h) description of the methods used by the facility to comply with each state minimum standard contained in Sections 17896.17 through 17896.61;
- (i) anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;
- (j) description of provisions to handle unusual peak loading;
- (k) description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (l) planned method for final disposal of the solid waste;
- (m) planned method for the storage and removal of salvaged material;
- (n) resume of management organization which will operate the facility;
- (o) An Odor Impact Minimization Plan pursuant to Section 17896.31 and, if applicable,

an Odor Best Management Practice Feasibility Report and associated plan pursuant to Section 17896.30.

Authority cited: *Sections 40502, 43020 and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 18221.6. Transfer/Processing Report.

Each operator of a Large Volume Transfer/Processing Facility that is required to obtain a Full Solid Waste Facility Permit, as set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2.0 - 3.2, (commencing with Section 21570) shall, at the time of application, file a Transfer/Processing Report or "Report" with the EA as required in Section 17403.9 of this Title. In order to maintain an existing permit, the operator must file amendments as required in Section 17403.9 of this Title and re-title the document as a Transfer/Processing Report. Such amendments, or lack thereof, may become the basis for changes in the permit or for revocation of the permit. A Report shall contain the following:

- (a) name(s) of the operator, owner, and the company they represent, if applicable;
- (b) facility specifications or plans, to include: a site location map, a site map, and identification of adjacent land uses and distances to residences or structures that are nearby and are within 1000 feet of the facility property line;
- (c) schematic drawing of the building and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;
- (d) descriptive statement of the manner in which activities are to be conducted at the facility;
- (e) days and hours the facility is to operate. If the hours of waste receipt differ from the hours of material processing, each set of hours may be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (f) total acreage contained within the operating area;
- (g) facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;
- (h) information showing the types and the daily quantities of solid waste to be received. If tonnage was figured from records of cubic yards, include the conversion factor used;
- (i) description of the methods used by the facility to comply with each state minimum standard contained in Sections 17406.1 through 17419.2;

- (j) anticipated volume of quench or process water, and the planned method of treatment, and disposal of any wastewater;
- (k) description of provisions to handle unusual peak loading;
- (l) description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (m) planned method for final disposal of the solid waste;
- (n) planned method for the storage and removal of salvaged material;
- (o) resume of management organization which will operate the facility;
- (p) list of permits already obtained, and the date obtained or last revised.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 18221.6.1. In-Vessel Digestion Report.

Each operator of a Large Volume In-vessel Digestion Facility that is required to obtain a Full Solid Waste Facility Permit, as set forth in Title 27, Division 2, Subdivision 1, Chapter 4, Subchapter 3, Articles 2.0-3.2, (commencing with Section 21570) shall, at the time of application, file an In-vessel Digestion Report ("Report") with the EA as required in Section 17896.15 of this Title. In order to maintain an existing permit, the operator must file amendments as required in Section 17896.15 of this Title and re-title the document as an In-vessel Digestion Report. Such amendments, or lack thereof, may become the basis for changes in the permit or for revocation of the permit. A Report shall contain the following:

- (a) name(s) of the operator, owner, and the company they represent, if applicable;
- (b) facility specifications or plans, to include: a site location map, a site map, and identification of adjacent land uses and distances to residences or structures that are nearby and are within 1000 feet of the facility property line;
- (c) schematic drawing of the building and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;
- (d) descriptive statement of the manner in which activities are to be conducted at the facility;
- (e) days and hours the facility is to operate. If the hours of waste receipt differ from the hours of material processing, each set of hours may be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of waste received per operating day. The operator may also indicate whether or

not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;

(f) total acreage contained within the operating area;

(g) facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;

(h) information showing the types and the daily quantities of solid waste to be received. If tonnage was figured from records of cubic yards, include the conversion factor used;

(i) description of the methods used by the facility to comply with each state minimum standard contained in Sections 17896.17 through 17896.61;

(j) anticipated volume of quench or process water, and the planned method of treatment, and disposal of any wastewater;

(k) description of provisions to handle unusual peak loading;

(l) description of transfer, recovery and processing equipment, including classification, capacity and the number of units;

(m) planned method for final disposal of the solid waste;

(n) planned method for the storage and removal of salvaged material;

(o) resume of management organization which will operate the facility;

(p) list of permits already obtained, and the date obtained or last revised;

(q) An Odor Impact Minimization Plan pursuant to Section 17896.31 and, if applicable, an Odor Best Management Practice Feasibility Report and associated plan pursuant to Section 17896.30.

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

Reference: *Sections 40053, 43020 and 43021, Public Resources Code.*

Section 18222. Report of Disposal Site Information. [Repealed]

Section 18223. Facility Plan For Medium Volume Construction and Demolition/Inert Debris Processing Facilities and Medium Volume C&D Wood Debris Chipping and Grinding Facilities.

(a) Each operator of a medium volume CDI debris processing facility or medium volume C&D wood debris chipping and grinding facility that is required to obtain a Registration Permit, as set forth in CCR, Title 14, Division 7, Chapter 3.0, Article 5.9, Sections 17383.5 or 17383.3, and CCR, Title 14, Division 7, Chapter 5.0, Article 3.0, commencing at Section 18100 et. seq., shall file with the EA, together with its application for a Registration Permit, a CDI Debris Processing Facility Plan or C&D

Wood Debris Chipping and Grinding Plan, as applicable. The Plan shall contain the following:

- (1) Names of the operator and owner, and the key employee responsible for operation of the site;
- (2) Schematic drawing all buildings and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;
- (3) Descriptive statement of the manner in which activities are to be conducted at the facility;
- (4) Days and hours that the facility is to operate. If the hours of debris receipt differ from the hours of material processing, each set of hours shall be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of debris received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;
- (5) Total acreage contained within the operating area;
- (6) Facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;
- (7) Information showing the types and the daily quantities of debris to be received. In any calculations necessary as part of the plan, amounts shall be figured in tons. If tonnage is figured from cubic yards, include the conversion factors used as approved by the EA;
- (8) Estimates of the amount of residual to be generated on a monthly basis and the amount of material salvaged and/or recycled;
- (9) Description of the methods used by the facility to comply with each State Minimum Standard required by CCR, Title 14, Division 7, Chapter 3.0, Article 5.9;
- (10) Anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;
- (11) Description of provisions to handle unusual peak loading;
- (12) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (13) Planned method for final disposition of debris received at the facility, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste;

- (14) Planned method for the storage and removal of salvaged material;
- (15) Resume of management organization which will operate the facility;
- (16) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement; and
- (17) The operator shall retain a record of training and instruction completed in accordance with Article 6.2, Section 17410.3.
- (18) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).
- (19) Fire Prevention, Control and Mitigation Plan ("Plan") which contains the following:
- (A) Description of the measures the operator will take to prevent fires and to control and extinguish fires at the site;
- (B) Identification and description of the equipment the operator will have available (on site and readily available off-site) to control and extinguish fires;
- (C) Description of the measures the operator will take to mitigate the impacts of any fire at the site to the public health and safety and the environment;
- (D) Description of the arrangements the operator has made with the local fire control authority having jurisdiction to provide fire prevention, control and suppression;
- (E) Discussion of the ability of the local fire control authority to suppress fires at the site in light of the authority's personnel, expertise and equipment, the availability of water, access to the site and to flammable materials on the site, the nature of flammable materials on site, the quantity and dimensions of materials on the site, and the potential for subsurface fires in accumulations of flammable materials on the site.
- (F) Evidence that the operator has submitted the Plan to the local fire control authority for review and that the authority has found it to be in compliance with the authority's applicable requirements.
- (b) The operator must file amendments as necessary to maintain the accuracy of the Plan. Such amendments may become the basis for revisions to the Registration Permit for the facility. Failure to submit timely amendments may be cause for suspension or revocation of the permit.

Authority cited: *Sections 40502, 43020, and 43021, Public Resources Code.*
Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 18223.5. Facility Reports For Construction and Demolition/Inert or Inert Debris Facilities and Large Volume C&D Wood Debris Chipping and Grinding Facilities.

(a) Each operator of a large volume CDI debris processing facility or inert debris processing facility, or large volume C&D wood debris chipping and grinding facility that is required to obtain a Full Permit, as set forth in CCR, Title 14, Division 7, Chapter 3.0, Article 5.9, Sections 17383.6 or 17383.8, or 17383.3 and 27, CCR, Division 2, Subdivision 1, Chapter 4, commencing with Section 21450, shall file with the EA, together with its application for a Full Permit, a CDI Debris Processing Facility Report or Inert Debris Processing Facility Report, as applicable. The Report shall contain the following:

(1) Names of the operator and owner, and the key employee responsible for operation of the site;

(2) Schematic drawing all buildings and other structures showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, loading, and parking areas;

(3) Descriptive statement of the manner in which activities are to be conducted at the facility;

(4) Days and hours that the facility is to operate. If the hours of debris receipt differ from the hours of material processing, each set of hours shall be stated. For facilities with continuous operations, indicate the start of the operating day for purpose of calculating amount of debris received per operating day. The operator may also indicate whether or not, and when, other activities, such as routine maintenance will take place, if those activities will occur at times other than those indicated above;

(5) Total acreage contained within the operating area;

(6) Facility design capacity including the assumptions, methods, and calculations performed to determine the total capacity;

(7) Information showing the types and the daily quantities of debris to be received. If tonnage is figured from cubic yards, include the conversion factors used;

(8) In any calculations necessary as part of the plan, amounts shall be figured in tons. If tonnage is figured from cubic yards, include the conversion factors used as approved by the EA;

(9) Description of the methods used by the facility to comply with each State Minimum Standard required by CCR, Title 14, Division 7, Chapter 3.0, Article 5.9, commencing at Section 17380;

(10) Anticipated volume of quench or process water and the planned method of treatment, and disposal of any wastewater;

- (11) Description of provisions to handle unusual peak loading;
- (12) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units;
- (13) Planned method for final disposition of debris received at the facility, including but not limited to materials being transferred to other facilities or operations for further processing, recycled materials, and solid waste;
- (14) Planned method for the storage and removal of salvaged material;
- (15) Resume of management organization which will operate the facility;
- (16) List of permits already obtained, and the date obtained or last revised;
- (17) The operator shall record and retain records of any serious injury to the public occurring on-site and any complaint of adverse health effects to the public attributed to operations. Serious injury means any injury that requires inpatient hospitalization for a period in excess of 24 hours or in which a member of the public suffers a loss of any member of the body or suffers any degree of permanent disfigurement; and
- (18) The operator shall retain a record of training and instruction completed in accordance with Article 6.2, Section 17410.3.
- (19) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).
- (19) Fire Prevention, Control and Mitigation Plan ("Plan") which contains the following:
 - (A) Description of the measures the operator will take to prevent fires and to control and extinguish fires at the site;
 - (B) Identification and description of the equipment the operator will have available (on site and readily available off-site) to control and extinguish fires;
 - (C) Description of the measures the operator will take to mitigate the impacts of any fire at the site to the public health and safety and the environment;
 - (D) Description of the arrangements the operator has made with the local fire control authority having jurisdiction to provide fire prevention, control and suppression;
 - (E) Discussion of the ability of the local fire control authority to suppress fires at the site in light of the authority's personnel, expertise and equipment, the availability of water, access to the site and to flammable materials on the site, the nature of flammable materials on site, the quantity and dimensions of materials on the site, and the potential for subsurface fires in accumulations of flammable materials on the site.
 - (F) Evidence that the operator has submitted the Plan to the local fire control authority

for review and that the authority has found it to be in compliance with the authority's applicable requirements.

(b) The operator must file amendments as necessary to maintain the accuracy of the Report. Such amendments may become the basis for revisions to the Full Permit for the facility. Failure to submit timely amendments may be cause for suspension or revocation of the permit.

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

Reference: *Sections 40053, 43020, and 43021, Public Resources Code.*

Section 18224. Report of Contaminated Soil Disposal Site Information.

Each operator of a contaminated soil disposal facility that is required to obtain a Standardized Solid Waste Facilities permit, as set forth in Section 17362.3, shall, at the time of application, file a Report of Contaminated Soil Disposal Site Information with the enforcement agency. A Report of Contaminated Soil Disposal Site Information shall contain the following:

(a) A descriptive statement of the manner in which the operation is to be conducted at the site.

(b) Information showing the types and concentrations of chemical constituents, and the quantities of contaminated soil to be received.

(c) A schematic drawing of the facility showing layout and general dimensions of the operations area, including, but not limited to, unloading, storage, disposal, and parking.

(d) A description of the proposed methods used to control litter, nuisances, odors, noise impacts, dust, and other public health and safety and environmental hazards.

(e) Indication of the approximate total acreage contained within the operations area and either the total estimated capacity in tons indicating in place densities assumed, or the capacity in cubic yards. Also include a projection of the life expectancy of the site based on current and/or anticipated loadings.

(f) The general location of the proposed disposal site shown on a map of at least the scale size equivalent to a 1:24,000 USGS topographical quadrangle. Such map shall show points of access to the site.

(g) A plot plan which delineates the legal boundaries for which clear title is held by the applicant and/or any parcels which are leased. Copies of lease agreements shall be submitted and substantiation shall be shown that the disposal site owner is cognizant of the disposal operations and the responsibilities assigned to the site owner by the standards.

(h) Identification on the plot plan of the specific limits of the existing and planned disposal area(s) showing relationships to the property boundary lines and adjacent land

uses surrounding the site, distances to the nearest structures shall be identified.

(i) A description of the sequence of development stages of the disposal site facility, giving tentative implementation schedules for development, usage, site completion and closure. Describe the extent of change which will occur in areas which will be excavated for the placement of contaminated soil.

(j) A map showing the existing topographical contours of the property and proposed final elevations of the completed disposal site.

(k) If known, a description of the uses of the site after termination of disposal operations, including the time frame for implementation of such use.

(l) Resume of management organization which will operate the disposal site.

(m) Compilation of the conditions, criteria, and requirements established by the various approval agencies having jurisdiction over the disposal site.

(n) A listing of permits already obtained and the date obtained or last revised.

Authority cited: *Sections 40502, 43020, and 43021 of the Public Resources Code.*

Reference: *Sections 43020 and 43021 of the Public Resources Code.*

Section 18223.6. Disposal Facility Plan.

Each operator of an Inert Debris Type A Disposal Facility that is required to obtain a Registration Permit pursuant to Title 14 CCR, Section 17388.4 shall, at the time of application, file a Disposal Facility Plan with the EA. In order to maintain the permit, the operator must file amendments as necessary to maintain the accuracy of the Plan. Such amendments, or lack thereof, may become the basis for changes in the permit or for revocation of the permit. A Disposal Facility Plan shall contain the following:

(a) Name(s) of the operator, owner, and the company they represent, if applicable;

(b) Scaled schematic drawing of the building and other structures showing layout and general dimensions of the operations area, including but not limited to, unloading, storage, loading, and parking areas;

(c) Descriptive statement of the manner in which activities are to be conducted at the facility;

(d) Days and hours of operation. If the hours of waste receipt differ from the hours of material processing, each schedule may be stated. For facilities with continuous operations, indicate the start of the operating day for the purpose of calculating the amount of waste received per operating day. The operator may also indicate whether or not, and when, other activities such as routine maintenance will take place, if those activities will occur at times other than those indicated above;

- (e) Total acreage contained within the operating or disposal areas;
- (f) Facility design capacity, including the assumptions, methods, and calculations performed to determine the total capacity;
- (g) Information indicating the types and daily quantities of waste or debris to be received. If tonnage is determined from records of cubic yardage, include the conversion factor used in the calculation;
- (h) Description of methods used by the facility to comply with each State Minimum Standard;
- (i) Anticipated volume of quench or process water and the planned method of treatment and disposal of any wastewater;
- (j) Description of provisions to handle unusual peak loading;
- (k) Description of transfer, recovery and processing equipment, including classification, capacity and the number of units.
- (l) Planned method for final disposal of the solid waste;
- (m) Planned method for the storage and removal of salvaged material.
- (o) Resume of management organization that will operate the facility.
- (p) A description of road building and seasonal tipping pad design.
- (q) A description of a program to prevent the acceptance of unapproved materials and hazardous wastes.
- (r) A description of the planned method of storage and removal of prohibited wastes.
- (s) A copy of the operator's Injury and Illness Prevention Plan (as applicable under current law).

Authority cited: *Sections 40502, 43020, 43021, and 48007.5, Public Resources Code.*
Reference: *Sections 40053, 43020 43021, and 48007.5, Public Resources Code.*

Section 18225. Nonhazardous, Nonputrescible, Industrial Solid Waste Codisposal Plan.

With an application for a permit, the operator of a facility shall file a Nonhazardous, Nonputrescible, Industrial Solid Waste Codisposal Plan with the EA, as required in Section 17369(b) of Article 5.7. In order to maintain the permit, the operator must file amendments as necessary to maintain the accuracy of the facility Plan required in Section 17369(b). Such amendments, or lack thereof, may become the basis for revocation of the permit. A Plan shall contain the following information, and may be derived from the Operation Plan approved by DTSC:

(a) name(s) of the operator and owner:

(b) scaled schematic drawing of the operations area, including but not limited to the active codisposal unit(s), and any DTSC/RWQCB approved closed waste management units, which contain nonhazardous, nonputrescible, industrial solid waste codisposed with hazardous waste;

(c) days and hours of operation for the disposal of nonhazardous, nonputrescible, industrial solid waste. For facilities with continuous operations, indicate the start of the operating day for the purpose of calculating the amount of nonhazardous, nonputrescible, industrial solid waste received per operating day.

(d) total acreage contained within the operating codisposal unit(s);

(e) unit design capacity;

(f) The operator of a facility shall demonstrate to the EA, pursuant to Title 27 California Code of Regulations Section 20918, that there is no potential for adverse impacts on public health and safety or the environment based on a projection of methane gas generation. This information shall be certified in writing by a registered civil engineer or registered geologist.

(g) The operator shall demonstrate evidence of acceptable closure and postclosure maintenance plans by providing written verification of compliance with DTSC, Title 22, Chapter 14 or Chapter 15, closure and postclosure maintenance plan requirements, if applicable, as they may be amended from time to time.

(h) Notwithstanding anything to the contrary in Title 27, California Code of Regulations, Division 2, Chapter 6 (commencing with Section 22200), the operator shall demonstrate evidence of acceptable closure and postclosure maintenance cost, and operating liability financial assurance mechanisms by providing written verification of compliance with DTSC, Title 22, Division 4.5, Chapter 14, Article 8 (commencing with Section 66264.140) financial assurance requirements, or Chapter 15, Article 8 (commencing with Section 66265.140), if applicable, as the may be amended from time to time.

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

Reference: *Section 40053, 43020, and 43021, Public Resources Code.*

Section 18226. Report of Nonhazardous Ash Disposal Site Information.

(a) Each operator of a nonhazardous ash disposal/monofill facility that is required to obtain a Standardized Solid Waste Facility Permit, as set forth in Section 17377.3, shall, at the time of application, file a Report of Nonhazardous Ash Disposal Site Information with the enforcement agency. A Report of Nonhazardous Ash Disposal Site Information shall contain all of the information required in Title 27, California Code of Regulations, Section 21600 with the exception of subsections: (b)(3)(A), (b)(4)(E), and (b)(8)(B).

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

Reference: *Sections 43020 and 43021, Public Resources Code.*

Section 18227. Report of Composting Site Information.

Each operator of a compostable material handling facility that is required to obtain a Compostable Materials Handling Facility Permit, as specified in Title 27, California Code of Regulations, Division 2, Subdivision 1, Chapter 4, Subchapter 1 and Subchapter 3, Articles 1, 2, 3, and 3.1 (commencing with Section 21450), or a Registration Permit for a Vegetative Food Material Composting Facility, as specified in Title 14, California Code of Regulations, Division 7, Chapter 5.0, Article 3.0 (commencing with Section 18104) shall, at the time of application, file a Report of Composting Site Information with the EA as required by Section 17863 of this Title. A Report of Composting Site Information shall contain the following.

(a) A description of the processes to be used, including estimated quantities of feedstocks, additives, and amendments.

(b) A descriptive statement of the operations conducted at the facility.

(c) A schematic drawing of the facility showing layout and general dimensions of all processes utilized in the production of compost including, but not limited to, unloading, storage, processing, parking, and loading areas.

(d) A description of the proposed methods used to control leachate, litter, odors, dust, rodents, and insects, for example, how the operator will store, process and incorporate food material and vegetative food material into windrows or static piles, timeframes for inclusion of material, collection and containment of leachate, passive and active vector controls, methods to monitor effectiveness of control measures..

(e) A description of the proposed emergency provisions for equipment breakdown or power failure.

(f) A description of the storage capacity, feedstock pile sizes, and anticipated maximum and average length of time compostable materials will be stored at the facility.

(g) A description of compostable materials handling equipment used at the facility including type, capacity, and number of units.

(h) Anticipated annual operation capacity for the facility in cubic-yards.

(i) A description of provisions to handle unusual peak loadings.

(j) A description of the proposed method for storage and final disposal of nonrecoverable or nonmarketable residues.

(k) A description of the water supplies for process water required.

(l) Identification of person(s) responsible for oversight of facility operations.

(m) A description of the proposed site restoration activities, in accordance with Section 17870.

(n) An Odor Impact Minimization Plan pursuant to Section 17863.4 and, if applicable, an Odor Best Management Practice Feasibility Report and associated plan pursuant to Section 17863.4.1. The EA may require the operator to revise the Odor Impact Minimization Plan and, if applicable, the Odor Best Management Practice Feasibility Report and associated plan if the operator proposes to accept new feedstock, such as food material or vegetative food material..

Authority cited: *Sections 40502, 43020, 43021 and 43209.1, Public Resources Code.*
Reference: *Sections 43020, 43021 and 43209.1, Public Resources Code.*

Article 3.3. Financial Responsibility for Operation Liability Claims. [Repealed]

Article 3.4. Application and Approval of Closure and Postclosure Maintenance Plans. [Repealed]

Article 3.5. Financial Responsibility for Closure and Postclosure Maintenance Plans. [Repealed]

Article 4. Enforcement by EA and Review by Department

Section 18301. Scope.

This Article applies to the activities of EAs in enforcing the state minimum standards, permits, and related state solid waste laws and regulations within their purview. It also applies to the activities of the board in reviewing such activities of LEAs and in acting in the place of LEAs that have failed to take appropriate actions or, when the board is the EA in a particular jurisdiction.

Authority cited: *Sections 40502 and 43020, Public Resources Code.*
Reference: *Sections 43209, 43216.5 and 45012, Public Resources Code.*

Section 18302. Written Complaints of Alleged Violations.

(a) Any person having information alleging a facility or operation is being operated without a required permit or notification, in violation of one or more terms or conditions of a permit, in violation of the state minimum standards, or in violation of any related state solid waste laws or regulations, or that a permit was obtained wholly or partially by misrepresentation or nondisclosure of relevant facts, may file a complaint regarding such allegation in writing to the EA. The complaint shall include the following:

(1) The name, address and telephone number of the person making the complaint, however nothing in this chapter shall be construed to prevent the making of anonymous complaints by omitting the identity of the reporting party from the complaint;

(2) The identity and location, if known, of the facility or operation and the names and addresses, if known, of the persons responsible for the violation;

(3) The nature of the violation and/or the relevant misrepresented or non-disclosed facts; and

(4) All known facts relevant to the alleged violation or likely to be of assistance to the EA in investigating the complaint, including but not limited to information relating to witnesses and physical evidence.

(b) The person making the complaint may forward a copy to the Department.

(c) Upon receipt of a complaint, the EA shall within fifteen days examine the complaint and determine whether its allegations, if true, would constitute a violation of a state minimum standard, permit term or condition or any related state solid waste law or regulation. The EA shall make its determination on the basis of the substance of the allegations rather than on the basis of the complaint's technical compliance with the Act or this chapter. Should the EA determine that the complaint fails to allege facts constituting a violation of a state minimum standard, permit term or condition or related state solid waste law or regulation, it shall so advise the reporting party in writing at the address given in the complaint if an address is given and place a copy in its files.

(d) Upon receipt of an odor complaint related to a compostable material handling operation or facility, the EA shall investigate the complaint as soon as practical to determine whether or not to issue a violation for failing to minimize odor. The odor complaint investigation shall include the following:

(1) The date and time the EA arrived and departed within the complaint area.

(2) Observations of wind direction and speed, and general weather conditions such as clouds, fog, high wind speed, humidity, and temperature.

(3) If odor is detected, the EA shall:

(A) Record the location where odor was observed, such as the street address, latitude/longitude, tax parcel number, etc.

(B) Verify the odor event at the complainant's location and document the complainant's claim, if any, that the odor is interfering with the complainant's use and comfortable enjoyment of life or property.

(C) Document odor characteristics, intensity, and duration at the complainant's location, the solid waste facility/operation, and other odor sources adjacent to the solid waste facility/operation.

(D) Identify activities conducted at the solid waste facility/operation at the time of the odor event. The EA should consult with the operator to determine if there were unusual operational changes or atypical feedstocks accepted during the time of the complaint(s).

(4) Any known facts relevant to the alleged violation provided by local, state, and federal agencies having appropriate jurisdiction.

(e) The EA may decline to investigate a complaint if, in its judgment, investigation is unwarranted because the allegations are contrary to facts known to the EA. Should the EA decline to investigate on that ground, it shall so advise the complaining party in writing at the address given in the complaint if an address is given and place a copy in its files.

(f) Except as provided in subsection (c) or subsection (e) of this Section, the EA shall commence an investigation of the facts alleged in the complaint.

(g) If an LEA has a complaint review and investigation initiation procedure that contains substantially the same basic requirements as this Section, and accomplishes the intended purposes of this Section within its Department-approved EPP, it may follow that equivalent process in lieu of subsections (c), (d) and (e) of this Section. Section 18302 is intended to insure that every person making a written complaint of an alleged unlawful condition at a solid waste facility or operation can assume that his or her complaint will receive appropriate attention.

(h) If the Department receives a complaint in a jurisdiction where it is not the EA, the complaint shall be forwarded to the appropriate LEA within 5 days of its receipt, unless the LEA has already received a copy from the complaining party.

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

Reference: *Sections 43209, 44012, 44015, and 45000-45024, Public Resources Code.*

Section 18303. Investigations.

(a) The EA shall conduct investigations of allegations made to it as required by subsection (e) of Section 18302 or, if applicable, as required by its own equivalent complaint review and investigation initiation procedure as described in its board-approved EPP, and shall conduct investigations of all other disposal sites, facilities and operations where it has reason to believe violations exist. In addition, the EA shall conduct such periodic investigations as it deems necessary to insure compliance with all related state solid waste laws and regulations. In any investigation of possible violation of a health-related standard, the LEA, if it is not the local health department, shall consult as appropriate with the local health department concerning enforcement actions. If an investigation of possible violation of a health-related standard is conducted by the board, it shall obtain and consider the recommendation of the State Department of Health Services in addition to that of the local health department/health officer.

(b) Investigations by LEAs shall be conducted in accordance with the procedures in their board-approved EPPs. The procedures shall include the requirements found in subsection (c).

(c) The EA shall maintain a record of each investigation. The record shall include but not be limited to the following:

- (1) The names of all persons interviewed and the date and location of each interview;
 - (2) A description of all documentary and other physical evidence examined;
 - (3) The dates, times, and locations of all inspections of the facility;
 - (4) A list of correspondence, including any written reports by the permittee;
 - (5) Any other evidence leading to resolve the issues.
 - (6) A summary of the findings and conclusions of each completed investigation.
- (d) The summary of the findings and conclusions of each completed investigation shall be included in the next periodic inspection report, as applicable.

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

Reference: *Sections 44100 and 44101, Public Resources Code.*

Section 18304. Notices and Orders.

(a) The EA as it deems appropriate or when required by statute, shall issue a notice and order pursuant to subsection (b) and Section 18304.1 if, in the course of an investigation or at any other time, the EA determines that any facility, disposal site, operation or person(s):

- (1) Is in violation of Division 30 of the Public Resources Code;
- (2) Is in violation of any regulations adopted pursuant to Division 30;
- (3) Is in violation of any terms or conditions of the solid waste facility permit under which the facility or disposal site is operating;
- (4) Causes or threatens to cause condition of hazard or pollution; or
- (5) Poses a potential threat to public health and safety or the environment.

(b) The notice and order shall contain the following information:

- (1) The identity of the EA.
- (2) The name or names of each person or entity to whom it is directed.
- (3) A description of the facility, operation or site where the violation was documented with a specific description of the location of the violation.
- (4) A description of the violation.
- (5) The statutes, regulations, or permit terms and conditions the EA has determined are being violated.

(6) A schedule, as described in Section 18304.1(a), by which the operator is to take specified action(s).

(7) The penalty for not complying within the specified schedule, as described in Section.1(b).

(8) A notice informing the owner/operator of their right to appeal the notice and order to the hearing panel or hearing officer under PRC 44307.

(9) The date of issuance and signature of an authorized officer or employee of the EA.

(c) The notice and order shall be accompanied by a declaration or affidavit under penalty of perjury of an employee or officer of the EA stating that the allegations contained in the notice and order are based either on personal knowledge or information and belief. If the basis of the allegations is the personal knowledge of the declarant or affiant, the declaration or affidavit shall state generally how such knowledge was obtained, including the date of any inspection. If the basis of the allegations is information and belief, the declaration or affidavit shall state generally the source of the information; however, in no case shall the identity of an informant be required to be revealed.

(d) Within five business days of issuance of the notice and order, it shall be served on the owner and operator of the site, facility or operation, or person as applicable, in the following manner:

(1) If the site or facility has been issued a permit, or if an application for the site or facility is pending, or if the EA has received a Notification for the operation, by certified mail, return receipt requested, to the address last given by the owner and operator or by personal service if certified mail attempts are unsuccessful; or

(2) If no permit has been issued and no application is pending, or no Notification has been filed, by posting a copy at no less than one conspicuous place at the site or facility. Additional copies shall be mailed to addresses of the owner and operator if known to the EA.

(e) A copy of any notice and order shall be sent to the board within five business days of issuance.

Enforcement: For efficient administration, a single notice and order form will be used to initiate any of the various enforcement actions provided by the Act. However, it should be noted that certain enforcement actions are available only for certain types of violations.

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

Reference: *Sections 45000-45024, Public Resources Code.*

Section 18304.1. Types of Notices and Orders; Enforcement Thereof.

The EA shall include in a notice and order at least one of the orders listed in subsection (a), and shall include the applicable notices listed in subsection (b):

(a) Orders

(1) Corrective Action Order

An order requiring the owner or operator of a facility, disposal site or operation to take specified action by a specified date to abate a nuisance, or to protect public health and safety or the environment. Example: Typical circumstances under which this order may be issued: Conditions at the facility, disposal site or operation are creating a nuisance or posing a threat to human health and safety or the environment.

(2) Cease and Desist Order

An order requiring the owner or operator of a facility, disposal site or operation to cease and desist any improper action, as specified in PRC Section 45005, by a specified date. Example: Typical circumstances under which this order may be issued: Facility, disposal site or operation is in violation of Division 30 of the Public Resources Code, any regulations adopted pursuant to Division 30, or cause or threatens to cause a condition of hazard, pollution or nuisance.

(3) Compliance Order

Upon any of the grounds specified in PRC Section 45011(a)(1), an order establishing a time schedule according to which the owner or operator of the facility, disposal site or operation shall correct any violations and/or abate a potential or actual threat to public health and safety or the environment. Example: Typical circumstances under which this order may be issued: Facility, disposal site or operation is in violation of Division 30 of the Public Resources Code, any regulations adopted pursuant to Division 30, any corrective action or cease or desist order, or poses a potential threat to public health and safety or the environment. A compliance order must be issued pursuant to PRC Section 45011 as a prelude to the assessment of administrative civil penalties.

(b) Notices

(1) Notice informing the owner and operator that failure to comply by a specified date in a final corrective action order may result in the EA contracting for corrective action.

Enforcement: As more fully described in PRC Section 45000, if the owner or operator fails to take corrective action as specified in a final order by the specified date, the EA or the board may either take corrective action itself or contract for corrective action to be completed by an outside party. Corrective actions taken by the EA, the board, or an outside party will be at the expense of the owner, operator or both and are recoverable pursuant to PRC Section 45000.

(2) Notice informing the owner or operator that the EA may take action to impose administrative civil penalties upon failure to comply with applicable deadlines in a final compliance order.

Enforcement: Pursuant to PRC Section 45011, if the owner or operator fails to achieve compliance by applicable deadlines in the order, the EA may impose penalties through written notification to the owner or operator. The notification shall include the amount of the penalty and the due date for payment, which in no case should be later than 30 days after the date the order becomes final.

(3) Notice informing the owner or operator that the EA is conditionally imposing administrative civil penalties in a specified amount per day with a specified start date for penalty accrual, upon failure to comply with applicable deadlines in a final compliance order.

Enforcement: If the owner or operator fails to achieve compliance by applicable deadlines in the order issued pursuant to PRC Section 45011, the EA shall notify the owner or operator in writing of the amount of the penalty and the due date for payment, which in no case should be later than 30 days after the date the order becomes final.

(4) Notice informing the owner or operator that failure to comply by the deadline in a final order may result in the EA petitioning the superior court to enjoin the violations, and that continued violation after the granting of an injunction may be punishable as contempt of court.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by filing an appropriate petition in superior court.

(5) Notice informing the owner or operator that upon failure to comply with a deadline in a final order, the EA may bring an action in the superior court to impose upon the owner or operator civil penalties.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by filing an appropriate petition in superior court pursuant to PRC Sections 45023 and 45024.

(6) Notice informing the owner or operator that the EA, subject to the applicable requirements of PRC Sections 44305 and 44306, may take action to suspend or revoke the permit for the facility upon failure to comply with applicable deadlines in a final order.

Enforcement: If the owner or operator fails to comply by the deadline in a final order, the notice may be enforced by revoking or suspending the permit for the facility pursuant to PRC Sections 44305 and 44306.

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

Reference: *Sections 45000-45024, 44305-44306, Public Resources Code.*

Section 18304.2. Final Orders.

An order becomes final when either:

(a) A notice and order has been requested by the operator and/or owner to be reviewed

by the local hearing panel or hearing officer, and the hearing process has been completed pursuant to PRC Sections 44307 & 44310, and any subsequent appeals to the board or Superior Court have been resolved pursuant to PRC Sections 45030-45042, or;

(b) Within 15 days of receipt if no review was requested by the operator.

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

Reference: *Sections 44307, 44310, 45017, 45030-45042, Public Resources Code.*

Section 18304.3. Mandated Enforcement Action.

An EA shall take the following actions for specific violations or situations:

(a) Issue a cease and desist order to cease operations immediately if the EA determines that a solid waste facility is operating without a permit or that an operation is operating without the proper notification;

(b) If a facility is included on the Inventory of Solid Waste Facilities Which Violate State Minimum Standards pursuant to PRC Section 44104, the EA is required to develop a compliance schedule which ensures that diligent progress is made by the operator to bring the facility into compliance pursuant to PRC Section 44106. The compliance schedule may be incorporated into a notice and order.

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

Reference: *Sections 44002, 44104 and 44106, Public Resources Code.*

Section 18304.4. Notice of Compliance Status.

Whenever the LEA issues a notice and order pursuant to Sections 18304 and 18304.1 or develops a compliance schedule, the LEA shall, 30 days after the final compliance deadline or expiration date in the order or schedule, provide notification of the compliance status with the order or schedule to the board. The notice of compliance status may be included as part of an LEA's periodic inspection report and shall include a determination as to whether the operator is in compliance with the notice and order or schedule and whether the notice and order or schedule has been completed, extended or enforced, as the LEA deems applicable and appropriate, along with the justification and reasoning for the determination.

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

Reference: *Sections 45000-45024, Public Resources Code.*

Section 18304.5. Notification of Enforcement.

Upon the taking of any action described in a notice as authorized by Section 18304.1, the LEA shall within five business days advise the board of the action in writing and include a copy of any court documents that have been filed.

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

Reference: *Sections 45000-45024, Public Resources Code.*

Section 18305. Enforcement of Notices and Orders [Repealed]

Section 18306. Emergency Actions.

(a) If the EA or the board determines that a violation exists that poses an imminent threat to public health and safety or the environment, the EA or the board may clean up, abate, or otherwise remedy the violations immediately upon failure of the owner and operator to take corrective actions by the deadline in a corrective action order issued pursuant to Sections 18304 and 18304.1. An owner's or operator's request to review the EA's or board's action by a hearing panel or hearing officer pursuant to PRC Section 44307, and any subsequent appeals, does not stay the effect of the order or prevent the EA or board from taking or contracting for corrective action.

(b) If any action is taken pursuant to subsection (a) of this Section, the EA or the board shall give notice in the manner specified in Section 18304(d) to the owner and operator as soon as practicable, but in no case later than five business days after taking the action. A copy of the notice shall be transmitted to the board within five business days of issuance.

(c) The EA or the board may bring an action in the superior or municipal court to recover the costs of emergency remedial measures. Upon the bringing of such an action, the EA shall advise the board of the action in writing accompanied by a copy of the complaint within five business days. When the board brings its own action in superior or municipal court, it shall notify the appropriate EA of the action in writing, accompanied by a copy of the complaint within five business days.

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

Reference: *Section 45000-45024, Public Resources Code.*

Section 18307. Actions to Suspend or Revoke a Permit.

(a) If the EA determines that there is cause for suspension or revocation of a permit pursuant to PRC Sections 44305 or 44306 respectively, and the EA has previously notified the operator in writing of the violation or other condition which is cause for suspension or revocation, the EA may issue to the operator, via certified mail with return receipt requested or by personal service if certified mail attempts are unsuccessful, a Notice of Intent to Suspend (NIS) or a Notice of Intent to Revoke (NIR) the permit. The NIS or NIR shall inform the operator of the EA's intent to suspend or revoke the permit and of the operator's right to request the matter to be heard in front of the hearing panel or hearing officer pursuant to PRC Section 44310. If the operator does not request a hearing within 15 days of receipt of the NIS or NIR, the EA may take action to suspend or revoke the permit without a hearing or it may hold a hearing prior to taking such action.

(b) The EA may, in its discretion, precede the issuance of the NIS or NIR filing by service of an appropriate notice and order in the manner specified in Section 18304, or it may include the NIS or NIR within a notice and order as long as the EA has previously

notified the operator in writing of the violation or other condition which is cause for suspension or revocation.

(c) Within five business days of issuing a NIS or NIR, the EA shall notify the board by providing it with a copy of the NIS or NIR.

(d) If, after an NIS or NIR has been issued, the proceeding to suspend or revoke a permit is terminated in any manner other than by decision of the hearing panel or hearing officer, the LEA shall so advise the board in writing.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 44305-44310, Public Resources Code.*

Section 18308. Enforcement Actions by Board. [Repealed]

Section 18309. Use of Performance Standards. [Repealed]

Section 18310. Statement of Intent. [Repealed]

Section 18311. Failure to Meet Performance Standards. [Repealed]

Section 18312. Review of Performance Standards. [Repealed]

Section 18313. Inspection. [Repealed]

Article 5. Enforcement by Board

Section 18350. Enforcement Actions by Board.

(a) Should the board find good cause exists for the issuance of a notice and order (N&O) or for the taking of any other enforcement action and should the board further find that the LEA has failed to take such an action pursuant to the LEA performance criteria in Section 18084, the board may take such an action after implementing the following procedures:

(1) Request in writing an increased enforcement response by the LEA, consisting of additional enforcement pursuant to its EPP and, if applicable, to a previously issued N&O, and offer technical assistance. The request shall include documentation of the lack of appropriate enforcement action on the part of the LEA;

(2) If the LEA fails to respond within 30 days of receipt of the request with an increased enforcement response, the board shall issue a Notice of Intent to Take Action (NIA) to the LEA and the operator. The NIA shall include the date and time for a board hearing which shall be scheduled in no case earlier than 30 days from the date the NIA is sent;

(3) If the LEA fails to respond with an increased enforcement response, the board shall hold a public hearing regarding its intent to take action. At the hearing, the board may decide to take enforcement action or to take any other action to improve LEA performance pursuant to PRC Section 43216.5.

(b) In taking enforcement action, the board shall follow applicable procedures set forth

for the EA in Sections 18304 through 18307, as applicable. Notice of such action shall be given to the LEA in the same time and manner required for notice to the board by the LEA pursuant to Section 18304(e).

(c) Notwithstanding Section 18350(a), if the board finds that the LEA's failure to take enforcement action causes an imminent threat to public health and safety or the environment, the board may take enforcement action, as it deems necessary without prior notification or hearing.

(d) For purposes of this Section, an imminent threat to public health and safety or the environment is defined as a condition which is creating a substantial probability of harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate the damages to persons, property, natural resources, or the public health or safety.

(e) In taking any enforcement action related to health standards, as defined in Section 17205, the board shall coordinate its activities with the State Department of Health.

Authority cited: *Sections 40502 and 43304, Public Resources Code.*

Reference: *Sections 45000-45024, Public Resources Code.*

Section 18351. Assumption of Duties of EA.

(a) The board shall assume the duties of the EA upon occurrence of any of the following circumstances:

(1) Upon agreement of the board and local governing body and designation of the board in the manner provided by law; or

(2) Upon withdrawal of a designation where no new designation is made and approved.

(b) Whenever the board assumes the duties of an EA, it shall so notify appropriate local governing body within 10 days of its assumption of duties.

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

Reference: *Sections 43202-43208, Public Resources Code.*

Section 18352. Filing of Papers. [Repealed]

Section 18353. Hearing Panel. [Repealed]

Section 18354. Appeals. [Repealed]

Section 18355. Fee Schedules. [Repealed]

Article 5.1 Inventory of Solid Waste Facilities Which Violate State Minimum Standards

Section 18360. Authority and Scope.

(a) This Article sets forth the procedures associated with the Inventory of Solid Waste Facilities Which Violate State Minimum Standards, and the enforcement roles of both the enforcement agency and the board.

(b) This Article is adopted pursuant to and for the purpose of implementing the California Integrated Waste Management Act of 1989 (Act) commencing with Section 40000 of the Public Resources Code, as amended. This Article should be read together with the Act.

(c) Nothing in this Article limits or restricts the power of any federal, state, or local agency to enforce any provision of law that it is authorized or required to enforce or administer, nor limit or restrict cities or counties from promulgating laws which are at least as strict as the regulations contained in this Article. However, no city or county may promulgate laws which are inconsistent with the provisions of this Article.

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

Reference: Sections 40053, 43020 and 43021, Public Resources Code.

Section 18361. Definitions.

The following definitions apply to Article 5.1.

(a) "Compliance schedule" means a written plan with milestone dates to achieve compliance for State Minimum Standard (SMS) violations. The compliance schedule could be proposed by the operator and approved by the enforcement agency or directed by the enforcement agency. The compliance schedule may be a stand-alone document or in the form of a Notice and Order pursuant to California Code of Regulations Section 18304.

(b) "Executive director" means the executive director of the board or his/her designee.

(c) "Inventory" means a list of solid waste facilities operating in the State of California that have multiple violation(s) of the state minimum standards for solid waste handling and disposal. State minimum standards regulate the design and operation of solid waste facilities in order to protect public health and safety of the environment in Title 14 or Title 27, California Code of Regulations

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

Reference: *Sections 44104 and 44106, Public Resources Code.*

Section 18362. Notice of Intent to List a Facility for Inclusion on the Inventory.

(a) If, at a permitted facility, the enforcement agency documents the same State Minimum Standards violation(s) for two consecutive months during its inspections, then the board will send a notice of intent letter to the operator and landowner of the facility. This letter is a notification to the operator/owner of a permitted facility that the board intends to place the facility on the Inventory if the violation(s) is not corrected within 90 days of receipt of the notice. The notice of intent letter will be sent by certified mail.

(b) The board must consult with the enforcement agency verbally or in writing before sending the notice of intent letter to ensure that the notification is based on current information.

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

Reference: *Sections 44104, Public Resources Code.*

Section 18363. Rescission of the Notice of Intent to List a Facility on the Inventory.

(a) If the enforcement agency provides written documentation that the facility is no longer in violation of all of the standard(s) listed in the notice of intent letter during the 90-day notice of intent period, then a rescission letter will be sent to the operator and landowner by the board. The rescission letter will be sent by certified mail.

(b) The enforcement agency must indicate compliance on an inspection report developed at the time compliance is determined or on the next inspection report after the determination.

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

Reference: *Sections 44104, Public Resources Code.*

Section 18364. Inclusion of a Facility on the Inventory.

(a) If the violation(s) listed on the notice of intent letter is not corrected on or before the 90th day subsequent to the operator's receipt of the notice of intent letter, then the board will send another letter to the operator and landowner as notification that their facility has been placed on the Inventory. The inclusion letter will state the violation(s) to be listed on the Inventory, including those on the notice of intent letter that have not been complied with, and will be sent by certified mail.

(b) The board must consult with the enforcement agency verbally or in writing before sending out an inclusion letter to ensure that the notification is based on current information.

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

Reference: *Sections 44104, Public Resources Code.*

Section 18365. Compliance Schedule.

(a) Within 15 business days following the date of the inclusion letter, the enforcement agency must issue a compliance schedule to the operator of the facility pursuant to PRC 44106(a). Within 5 business days of issuance of the compliance schedule, a copy will be sent to the board.

(b) The compliance schedule must have the final compliance date within one year from the date of the inclusion letter. The enforcement agency may issue a compliance schedule for more than one year but not to exceed two years, after informing the executive director in writing. A one-year extension beyond two years may be made prior to the expiration of the two-year period upon approval by the executive director. The executive director shall report any such approvals or disapprovals to the board.

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

Reference: *Sections 44106, Public Resources Code.*

Section 18366. Removal of a Facility from the Inventory.

(a) When the enforcement agency provides the board with written documentation that the facility is no longer in violation of all the standard(s) listed on the inclusion letter, then a removal letter will be sent to the operator and landowner by the board. The removal letter will be sent by certified mail within 15 days of the receipt of the LEA documentation.

(b) The enforcement agency must indicate compliance in an inspection report developed at the time compliance is determined or in the next inspection report after the determination.

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

Reference: *Sections 44104 and 44106, Public Resources Code.*

Section 18367. Publishing the Inventory.

(a) The Inventory will be published twice a year in board meeting minutes. Updates to the published Inventory will be made as needed.

(b) Each city council or county board of supervisors with a facility in its jurisdiction on the Inventory will receive a copy of the twice a year published Inventory. The jurisdiction will be notified when the facility is removed from the Inventory.

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

Reference: *Sections 44104, Public Resources Code.*

Section 18368. Penalties.

(a) The enforcement agency may issue enforcement orders as it deems appropriate pursuant to Public Resources Code, Division 30, Part 5 (commencing at Section 45000) and Title 14, California Code of Regulations, Division 7, Chapter 5, Article 4

(commencing at Section 18301).

(b) The enforcement agency may revoke the permit of a solid waste facility that does not meet the requirements contained in the compliance schedule issued by the enforcement agency until the violation(s) of state minimum standards which caused the facility to be included in the Inventory are remedied, pursuant to Public Resources Code, Division 30, Part 4, Sections 44305 and 44306, and Title 14, California Code of Regulations, Section 18307.

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

Reference: *Sections 45000-45024 and 44106, Public Resources Code.*

Article 6. Criteria, Priority and Administration of the Loan Guarantee Program Provided Pursuant to the Waste Disposal Site Hazard Reduction Act of 1987

Section 18400. Definitions.

For the purposes of this Article, the definitions found in Public Resources Code Sections 46021-46028 shall apply unless otherwise indicated. The following supplementary definitions shall also govern the construction of this chapter:

(a) "Approved lending institutions" means banking organizations, including national banking associations and state chartered commercial banks and trust companies; savings and loan associations; and state and federal agencies authorized to make loans, such as the California Pollution Control Financing Authority.

(b) "Borrower" means an owner or operator of a solid waste landfill who applies for a loan, and meets the eligibility requirements set forth in Section 18401 of these regulations.

(c) "Default" means the failure of a borrower or debtor to pay, when due, the principal and/or the interest owed:

(1) on an installment if the note is written for installment payments; or

(2) on maturity of the note if the note is written for a lump sum payment; or

(3) on demand of the lender if the lender has exercised the note's acceleration clause.

In the absence of the conditions stated above, failure of the debtor to comply with terms or conditions attached to a note shall not in itself constitute a default that would allow the lender to file a claim against the guarantee.

(d) "Qualifying" corrective actions are those actions which are required by a state or local enforcement agency to protect the public health or the environment, including but not limited to, events related to water contamination, air pollution, and methane gas migration at solid waste disposal facilities, and which are neither provided for in the

closure or postclosure maintenance plans for a facility which are required by Section 18255 of this Title; nor are required to be set forth in a facility's closure and postclosure maintenance plans by Sections 18261 through 18265.3 of this title.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46021-46028, 46300-46301, 46303 and 46350-46353, Public Resources Code.*

Section 18401. Loan Guarantee Criteria.

The Board may guarantee a loan only if it determines that the borrower meets the following criteria:

(a) The borrower has met the requirements, if applicable, of Public Resources Code Section 46202.

(b) The loan guarantee, if provided, shall be used to secure a loan from an approved lending institution to implement a qualifying corrective action, which is required to be taken pursuant to Section 41805.5 of the Health and Safety Code or Section 13273 of the Water Code, or pursuant to directions from a state or local enforcement agency.

(c) The borrower is unable to secure adequate finances for a qualifying corrective action and has provided written evidence that this guarantee is necessary in order to secure adequate finances. Evidence may include, but is not limited to, credit evaluations from approved lending institutions indicating that a guarantee is needed in order for the loan to be made.

(1) The landfill owner or operator shall have attempted to secure financing through conventional funding mechanisms, including but not limited to increased tipping fees, to cover the cost of implementing the corrective action.

(2) The borrower is unable to obtain the required financing from any of its parent, subsidiary or associated enterprises.

(d) If the facility is in the process of closing, the borrower must be undertaking the planned closure and postclosure maintenance activities. If any part of the facility has already been closed, the borrower must be undertaking the planned closure and postclosure maintenance activities on the closed portion.

(e) The borrower is able to repay the loan.

(1) Evaluation of the borrower's ability to repay shall be based on the borrower's financial statements for the previous three (3) years.

(A) Each of these statements shall consist of a balance sheet, an income statement, and a statement of changes in financial position, all of which will have been prepared according to generally accepted accounting principles.

(B) If the latest complete financial statement is more than six (6) months old, an interim financial statement not older than sixty (60) days shall be included.

(2) If financial statements are not available, the borrower will provide other information acceptable to the Board which establishes a financial ability to repay the loan, such as:

(A) Income tax returns,

(B) Credit reports from Retail Credit Association and other credit reporting agencies,

(C) An appraisal report showing the value of real and personal property which is suitable as collateral.

(f) The loan which is to be guaranteed will be secured by collateral as the Board may require, such as, but not limited to, a mortgage or security interest in real estate, and buildings or personal property of the borrower. These items may only be subject to encumbrances that the Board may approve, such as, assignment or pledges of leases, and personal or corporate guarantees. Only the unencumbered equity portion of the property accepted as collateral shall be considered as collateral. Personal guarantees of the principals shall be required, unless reasons satisfactory to the Board are presented which justify not requiring such guarantees.

(1) Real state or stationary machinery or equipment pledged as a significant portion of collateral for repayment of a guaranteed loan shall be located within the State of California. Real estate pledged as collateral shall not include land which has been used as a solid waste disposal site.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46205 and 46303-46307, Public Resources Code.*

Section 18402. Priority.

The allocation of loan guarantee funds by the Board shall be in accordance with the following order of priority:

(a) First priority will be given to applicants who need to secure financial resources for the mitigation of identified hazards to public health, damage to the environment, or nuisance to the public, of greatest severity, which are created by solid waste landfills and entail qualifying corrective actions as defined in Section 18400 of this Article.

(b) In the event that applications to mitigate hazards of equal severity are received, priority will be given to those applications where it is shown that there will be the greatest increase in the costs associated with the anticipated corrective action, if the corrective action is delayed.

(c) In the event that a priority between applications cannot be established by subsections (a) and (b), priority will be given to those applicants who demonstrate the best record of compliance with applicable law, regulations and permits required in the

operation of landfill facilities.

(d) In the event that a priority between applications cannot be established by subsections (a) through (c), priority will be given to those applications with the smallest dollar value, in order to allow the maximum number of guarantees to be made within the limits of the Loan Guarantee Program.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46306 and 46307, Public Resources Code.*

Section 18403. Loan Guarantee Size.

(a) The minimum loan amount that will be guaranteed is the smallest amount which an approved lending institution is willing to loan to the borrower.

(b) The maximum loan guarantee amounts shall be subject to the following limitations:

(1) A loan guarantee will not exceed \$1,000,000 or the cost of the specified corrective action, whichever is less.

(2) The total loan guarantee amount awarded to any one borrower will not exceed fifty percent (50%) of the balance of funds in the Account allocated for loan guarantees at the time the guarantee is awarded.

The Board may guarantee a loan in excess of these limits if it determines that a guarantee with a greater value is necessary to mitigate hazards to public health, damage to the environment, or nuisance to the public.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46300, 46301 and 46303, Public Resources Code.*

Section 18404. Loan Guarantee Period.

(a) A loan guarantee will expire sixty (60) months after the effective date of the guarantee or on the date the loan is repaid, whichever occurs first.

(b) A guarantee may be renewed prior to its termination. The Board will determine whether to renew a guarantee using the same criteria and procedures used to establish a new loan guarantee.

(c) A guarantee may exceed sixty (60) months if the Board determines that hazards to public health will exist, or damage to the environment will ensue, or a nuisance to the public will persist if a guarantee with a longer life is not made.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Section 46303, Public Resources Code.*

Section 18405. Percentage of Guarantee.

The Board may guarantee no more than ninety percent (90%) of the principal balance to be loaned. This guarantee shall obligate the Board to purchase from the lender the guaranteed portion of a loan in the event of a default, subject to the terms and conditions of the guarantee as specified in Sections 18412 and 18413, and in the loan guarantee contract.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Section 46303, Public Resources Code.*

Section 18406. Reserve Ratio.

The Board shall insure that at all times loan guarantee funds are held in reserve in an amount equal to no less than seventy-five percent (75%) of the total amount of the guaranteed principal and interest which is currently outstanding.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46300-46301, Public Resources Code.*

Section 18407. Loan Interest.

The rate of interest to be charged on guaranteed loans shall be negotiated between the lender and borrower. The lender shall inform the Board of agreed-upon interest rate for a loan at the time the loan is made.

Authority cited: *Sections 40502 and 46201, Public Resources Code.*

Reference: *Section 46303, Public Resources Code.*

Section 18408. Application for Loan Guarantees; Fees.

(a) A landfill owner or operator shall file an application for a loan guarantee to fund a corrective action at the principal place of business of the Board.

(b) A landfill owner or operator shall file an application for a loan guarantee that includes information as specified in CIWMB Forms 201 (5/89), 202 (5/89) and 203 (5/89), which are incorporated by reference. Submittal of these forms is optional, but submittal of the information requested in these forms is mandatory.

(c) A lender shall include information on an applicant as specified in CIWMB Form 204 (5/89), which is incorporated by reference. Submittal of this form is optional, but submittal of the information requested in this form is mandatory.

(d) A minimum nonrefundable application fee of \$250 or one-tenth (1/10) of one percent of the loan amount to be guaranteed, whichever is greater, shall be paid to the Board at the time of application to defray the Board's expenses in reviewing and processing the application.

Authority cited: *Sections 40502 and 46201, Public Resources Code.*

Reference: *Sections 46204, 46308 and 46309, Public Resources Code.*

Section 18409. Board's Actions on Applications.

(a) Upon receipt of an application for a loan guarantee made by a landfill operator or owner, the Board shall review the application to determine if the application is complete. If the application is not complete, it shall be returned and the applicant notified of the deficiencies in the application within thirty (30) days. The applicant may resubmit an application to correct the identified deficiencies one time without paying a new application fee.

(b) Within ninety (90) days of the receipt of the complete application, the Board shall approve, modify or deny the application for a loan guarantee.

(c) Upon approval of a requested loan guarantee, the Chairman of the Board shall insure that the criteria and priority imposed by Sections 18401 and 18402, have been fully met.

(d) Before a loan guarantee commitment is issued by the Board, the terms of a loan guarantee shall be set forth in a contract agreed to by the borrower, the lender, and the Board.

(e) In the event the Board disapproves any application, the Board will notify the applicant of the disapproval and the reasons for the disapproval. The notice shall include a statement of the applicant's right to appeal for reconsideration upon meeting the requirements set forth in the notice of disapproval. An applicant may appeal for reconsideration one time without paying a new application fee.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Section 46201, Public Resources Code.*

Section 18410. Report of Fund Condition.

(a) Guaranteed loans shall be subject to audit by the Board at any time, as the Board deems warranted. These loans shall be subject to audit by the Board from the time the guarantee is issued until three years after the guarantee has expired.

(b) If, in the course of an audit, all accounting records of the loan expenditures are not available, the borrower will produce these records within sixty (60) days. If no ledgers exist, the borrower shall provide the Board with copies of source documents such as invoices, canceled checks, time sheets and payroll registers. It is the responsibility of the borrower to maintain proper accounting records.

(1) In the event that an audit reveals that the borrower used any of the loan proceeds for purposes other than the corrective action for which the loan guarantee was awarded, the borrower will be in violation of the loan guarantee agreement. Dependent upon the scope of the misuse of funds, the Board shall take action, such as, requiring refunds of misspent funds, filing civil lawsuits or criminal prosecution.

(c) Lenders shall verify in writing the condition of loans upon request by the Board. The verification shall consist of the terms of the loan, the repayment schedule, monthly payments, and any other information needed to monitor the financial condition of loans guaranteed.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Section 46205, Public Resources Code.*

Section 18411. Default Claim Procedures.

The following default claim procedures shall apply in the event a guaranteed loan is in default:

(a) The lender shall notify the Board of the debtor's delinquency by mailed notice no later than the forty-fifth (45th) day of delinquency.

(b) The lender shall supply the Board with copies of the notes, security agreements, guarantees and a summary of the loan's history, including where the loan is domiciled, the payment record, and a copy of the lender's liquidation plan by the sixtieth (60th) day of delinquency.

(c) The lender may file with the Board its claim for payment under the terms of the guarantee as stipulated in Section 18412, no earlier than the ninetieth (90th) day of delinquency. This claim shall be for the guaranteed portion of the outstanding principal balance of the loan plus the accrued unpaid interest on the guaranteed amount.

(d) Within forty-five (45) days from receipt of a claim for payment as a result of a delinquency, the Board shall notify the lender of its intent to purchase from the lender the guaranteed portion of the note for the amount specified in the claim.

(e) From the time a loan payment is first delinquent until the guaranteed portion of the note and the accrued interest is paid by the Board, the lender shall take actions necessary to secure and exercise its position as a creditor.

(f) On purchase of the guaranteed portion of a defaulted note by the Board, the lender shall assign the guaranteed portion of the note, security interest, and guarantees to the Board. The Board shall take the action it deems necessary and appropriate in order to secure payment from the debtor or the debtor's assets.

(g) In the event the Board obtains recovery on a defaulted note after its purchase from the lender, the proceeds of the recovery, minus the cost of recovery, shall be shared between the Board and lender in proportion to the exposure the Board and lender respectively bore to the defaulted note.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46350-46353, Public Resources Code.*

Section 18412. Terms of Guarantee.

The Board shall be obligated to purchase no more than ninety percent (90%) of the outstanding principal balance and the accrued unpaid interest. In the event the lender requests the note be purchased, the Board shall pay the percentage of accrued interest guaranteed for the number of days the debtor has been delinquent, up to the day the Board notified the lender of its intent to purchase the note. Payment, however, shall be conditional upon the lender having met the conditions of the guarantee as stipulated in Section 18413.

In the event that the lender has recovered part of the collateral or security interest prior to reimbursement by the Board, only the difference between the recovered money and the guaranteed portion of the principal and the interest may be claimed against the loan guarantee fund by the lender. If the lender or the Board obtains recovery on a defaulted note after purchase and reimbursement by the Board, the recovery shall be paid to the Board and the lender in proportion to the exposure the Board and the lender respectively bore to the defaulted note after the deduction of its collection costs.

No single claim shall, nor shall the aggregate of claims made by lenders, hereunder, exceed the amount allocated to the loan guarantee fund in the Account. The State shall not be liable or obligated in any way beyond the State money allocated to the loan guarantee fund in the Account.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46205 and 46350-46353, Public Resources Code.*

Section 18413. Conditions of Guarantee.

The Board shall honor its guarantee to a lender if:

- (a) The debtor is in default of the note, as defined in Section 18400(c).
- (b) The lender has met the conditions for the issuance of the guarantee and has observed the lender's reporting and collection requirements as specified in Sections 18410 and 18411.
- (c) The lender has complied with the terms of the loan guarantee contract.

Authority cited: *Sections 46201 and 40502, Public Resources Code.*

Reference: *Sections 46350-46353, Public Resources Code.*

Chapter 6. Permitting of Waste Tire Facilities and Waste Tire Hauler Registration and Tire Manifests

SubChapter Ghost Header for Outline ADA Compliance

Article 1. General

Section 18420. Applicability.

(a) The operator of a waste tire facility shall acquire a waste tire facility permit in accordance with the requirements of this Chapter and Public Resources Code Section 42808, unless any of the following conditions exist:

(1) The waste tires are stored within the boundaries of, or disposed at, a permitted solid waste disposal facility or stored within the boundaries of a permitted transfer station which receives less than 150 waste tires per day averaged over a 365-day period. If waste tires are stored within the boundaries of a solid waste facility, the permit of the solid waste facility shall conform to the requirements of Public Resources Code Section 44004 and Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations, to reflect the storage of waste tires.

(2) The facility is using fewer than 5,000 waste tires for agricultural purposes and the waste tires have been rendered incapable of holding accumulations of water.

(3) The facility is storing fewer than 500 waste tires.

(4) The facility is a tire trading business and not more than 3,000 waste tires are kept on the premises.

(5) (Reserved)

(6) The facility is an automobile dismantler, as defined in Sections 220 and 221 of the Vehicle Code, who stores waste tires on the premises of the auto dismantler for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dismantler's premises.

(7) The facility is a tire dealer who stores waste tires on the dealer's premises for less than 90 days if not more than 1,500 waste tires are ever accumulated on the dealer's premises.

(b) For the purposes of determining the applicability of this Chapter 6, altered waste tires shall be counted as passenger tire equivalents as that term is defined in Section 17225.770 of Title 14 of the California Code of Regulations.

(c) Operations authorized to use the enforcement agency notification tier as prescribed by Sections 18103 and 18103.1 of Title 14 of the California Code of Regulations, that stores, stockpiles, accumulates or discards 500 or more waste tires shall comply with the waste tire facility permitting requirements set forth in Division 30, Part 3, Chapter 16 of the Public Resources Code, and Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations.

(d) For the purposes of Chapter 6, Articles 2 through 7 and Articles 9, 10 and 11 apply to operators and/or businesses described under Chapter 6, Article 1.

(e) A "used tire dealer" is only authorized to lawfully accept waste or used tires without a waste tire facility permit if the used tire dealer is in compliance with Section 17225.820, Article 4.1, Chapter 3 and has fewer than 1,500 waste tires in accordance with Public Resources Code Section 42808(c).

Authority cited: *Sections 40502, 42820, 42830 and 42966, Public Resources Code.*

Reference: *Sections 42806.5, 42808, 42820, 42830, 42831, 42832, 42950, and 44014, Public Resources Code.*

Section 18420.1. Waste Tire Collection Location.

(a) Any amount of waste or used tires is in "collection" when temporarily placed in a fully enclosed container, on a lot identified by a unique assessor's parcel number that is not part of:

(1) A permitted waste tire facility,

(2) A permitted solid waste facility,

(3) A facility identified in Section 18420(a) of this Article, or

(4) An operation operating pursuant to a notification requirement prescribed by Sections 18103 and 18103.1 of Title 14 of the California Code of Regulations.

(b) "Collection Location" means a location on which tires are being stored in collection in accordance with subsection (a), and includes the containers in which tires are placed and the area surrounding the containers on which tires are temporarily placed during unloading, sorting, and loading.

(c) The requirements of Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations shall not apply to a collection location if all of the following six (6) requirements are met:

(1) All waste and used tires onsite shall be kept in closed containers except while actively unloading, sorting, or loading.

(2) Containers shall be kept locked when not being unloaded, sorted, or loaded.

(3) Containers shall, at all times, be kept on or as part of a trailer for which a current,

valid license plate has been issued by the Department of Motor Vehicles or an equivalent agency in another state or country.

(4) A waste or used tire transported to or from a collection location shall be manifested in accordance with Article 8.5 of this Chapter.

(5) Containers shall not remain onsite longer than 90 days.

(6) The total number of waste or used tires at a collection location, including, but not limited to, waste or used tires located in closed containers and on the ground, shall not exceed 4,999.

(d) Only whole waste or used tires that have not been altered, baled, or otherwise processed to become tire derived product or tire casings may be in "collection."

(e) Nothing in this Article shall be construed as relieving any owner or operator from obtaining and operating under the terms and conditions of all use permits, business licenses, and other approvals required by applicable local governments.

(f) A person who owns or operates a collection location as defined in subsection (b) shall notify the Department in accordance with Section 18431.2 of Article 4, Chapter 6, Division 7 of Title 14 of the California Code of Regulations. If there is a change to the information provided pursuant to California Code of Regulations Section 18431.2, the operator or owner of the collection location shall report the change to the Department in writing within thirty (30) days from the date of the change.

(g) The owner or operator of a collection location shall notify the Department in writing of the intent to cease operations, thirty (30) days prior to discontinuing operations.

(h) A person responsible for discontinuing or dismantling a collection location shall properly remove all tire material to an authorized facility, in accordance with Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations, and shall notify the Department in writing when closure activity is complete.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Sections 42800, 42820, 42830 and 43020, Public Resources Code.*

Section 18421. Scope [Repealed]

Section 18422. Definitions [Repealed]

Article 2. Review of Permit Applications

Section 18423. Permit Application Filing.

(a) Every operator of a new major or minor waste tire facility shall submit to the Department a complete and correct waste tire facility permit application, as specified in Article 4 of this Chapter.

(b) Upon receipt of the application, the Department shall mark the application package with the date of receipt. Within 30 days of receipt, the Department shall examine the application package to determine whether it meets the requirements contained in this chapter and either accept the application as complete and correct or reject the application. If the Department finds the application meets the requirements, the application shall be accepted as complete and correct. If the Department determines that the application does not conform to the applicable requirements, it shall notify the applicant in writing enumerating the grounds for rejection.

(c) The operator of a waste tire facility may, at any time, withdraw a certification or permit revision application by submitting a written request to the Department. An applicant may not withdraw an application for revision if the Department requests the permit be revised pursuant to Section 18427(b) or (f) of this Chapter.

(d) For purposes of this Chapter, "Complete and Correct" means all information provided by the applicant regarding the waste tire facility is accurate, exact, and fully describes all parameters of the waste tire facility.

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Sections 42820, 42821, 42822, 42830, 42832 and 42833, Public Resources Code.

Section 18424. Permit Application Amendments.

(a) At any time after an application for a waste tire facility permit has been made and before issuance or denial of a permit or revision thereof, the applicant shall notify the Department of any changes to the required information on the application. Such notice shall be given by the filing of an amendment to the application.

(b) If the Department determines that the amendment significantly alters the nature of the application, the Department may deem the amendment a new application. The new application shall supersede the previous application. In this case the time for the Department to act on the new application shall be computed from the date of filing of the amendment.

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Sections 42820, 42821, 42822, 42830, 42832 and 42833, Public Resources Code.

Article 3. Permit Issuance, Review, Revision, Revocation, Denial, Suspension, Reinstatement, Change of Owner, Operator, and/or Address

Section 18425. Permit Issuance.

(a) With the exception of subsection (d), within 180 days of accepting a complete and correct application, the Department shall either issue a permit or deny the issuance of a

permit in accordance with subsections (b) and (c), respectively, unless the applicant requests an extension of time.

(b) Upon the applicant's compliance with this Chapter, the Department may make findings and issue the permit as provided in this Article. The permit shall specify the conditions under which the waste tire facility shall comply with applicable Sections of the Public Resources Code and the California Code of Regulations.

(c) If the Department denies the issuance of a permit, it shall accompany its denial with a written explanation of its action.

(d) If the Department is lead agency for the project as defined in Government Code Section 65929, for which an environmental impact report shall be prepared pursuant to Public Resources Code Section 21100, the Department shall have one year, from the date the application was accepted as complete and correct, to issue or deny the issuance of a permit in accordance with subsections (b) and (c), respectively. If there has been an extension of time pursuant to Public Resources Code Section 21100.2 to complete and certify the environmental impact report, the Department shall issue a permit or deny the issuance of a permit in accordance with subsections (b) and (c), respectively, within 90 days after certification of the environmental impact report. This extension of time may be extended once for an additional period, not to exceed 90 days, upon consent of both the applicant and the Department.

(e) A copy of the current permit shall be made available upon request to the Department or an authorized employee or agent of the Department during an inspection of the facility.

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Sections 42821, 42822, 42832, 42833, 42840, and 42841, Public Resources Code and Sections 15376 and 65920 through 65961, Government Code.

Section 18426. Permit Review.

(a) The operator of a permitted waste tire facility shall provide the Department at least once every five years:

(1) A certification in the form of a letter to the Department, signed by the operator under penalty of perjury, stating that the facility operations continue to conform to the terms of the permit and information in the permit application currently on file with the Department, or

(2) A permit revision application that only identifies proposed changes, in the manner prescribed in Section 18427(c) of this Article.

(b) The operator of a permitted waste tire facility shall submit the certification or permit revision application to the Department at least 180 days prior to five years from the date the Department last issued, or approved a revision, or reviewed a certification of the permit.

(c) The operator of a waste tire facility that has a waste tire facility permit with an expiration date shall provide the submittals required by subsection (a) at least 180 days prior to the permit expiration date.

(d) If the Department, upon review of a certification submitted pursuant to subsection (a), determines that the waste tire facility operations no longer conform to the terms of the permit or the information in the permit application currently on file, the Department shall:

(1) Inform the operator of its decision and the basis for its decision within thirty (30) days of receipt of the certification, and

(2) Require the operator of the waste tire facility to submit a permit revision application.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42820, 42821, 42822, 42830, 42832, 42833, 42840, Public Resources Code and Section 15376, Government Code.*

Section 18427. Permit Revision.

(a) If a permittee proposes to make a substantial change in the design or operation of the waste tire facility, the operator of the waste tire facility shall apply for a revision of the permit. The application shall be made in the manner specified in Sections 18423 and 18424, 18431, 18432, 18433 and 18434 of Article 4 of this Chapter.

Except as otherwise provided in this Section, the Department shall review and process a permit revision application in the same manner as a new permit application.

(b) The Department may require a permittee to submit a permit revision application if a revision is required to reflect changed state or federal statutes or regulations applicable to the facility.

(c) A permit revision application shall only include required application documents as set forth in Sections 18431, 18432, 18433, and 18434 of Article 4 of this Chapter that are necessary to reflect the changes in operations at the waste tire facility.

(d) The permittee shall notify the Department in writing of a waste tire facility's administrative change no later than seven (7) business days after the change is effective. An administrative change shall include but is not limited to, change to any information in the application that does not apply to the design or operation of the facility.

(e) If the Department determines that a waste tire facility administrative change requires a permit revision, it shall notify the applicant in writing within thirty (30) days of receipt of the administrative change notice.

(f) The Department may, at any time, require a permittee to submit a permit revision application if the Department finds that the facility operations no longer conform to the

terms and conditions of the waste tire facility permit or the information in the waste tire facility permit application currently on file with the Department.

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Sections [add Section numbers here], Public Resources Code.

Section 18428. Change of Owner, Operator, and/or Address.

(a) Owners and/or operators of a facility who plan to sell, encumber, transfer or convey the ownership or operation of the facility or land to a new owner or operator, or who plan to change their address shall notify the Department 30 days prior to the date of the planned transaction. The new owner or operator is required to submit the following information:

(1) Name(s) and address(es), where notice may be sent, and phone number(s) of the new owner and/or operator;

(2) Documentation that the new owner and/or operator meets the financial assurance and operating liability requirements, when applicable;

(3) A signed affidavit certifying that the owner and/or operator has read the governing permit and conditioning documents and will operate in accordance with the terms and conditions of the existing waste tire facility permit and conditioning documents and that all new information submitted is correct; and

(4) Amendments to the application package to reflect the change in owner and/or operator, and/or facility name.

(b) The Department shall make the applicable administrative changes to the permit and forward the applicable pages of the permit to the permittee

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Sections 42820 and 42830, Public Resources Code.

Article 3.5. Waste Tire Facility Violations and Enforcement

Section 18429. Penalty Schedule.

(a) Applicability:

Any person violating any statute set forth in Division 30, Part 3, Chapter 16 of the Public Resources Code, or any regulation set forth in Chapter 3, or Chapter 6, Articles 1 through 7 or 9 through 11 of Title 14 of the California Code of Regulations, may be liable for a penalty set forth in this Section, including but not limited to, an owner or operator of a waste tire facility (WT Facility).

(b) Capacity Violations at an Unpermitted Waste Tire Facility:

Use subsection (h), Table 1, to determine the base penalty for each violation of Public

Resources Code Sections 42823, 42824, 42833, 42834, and Section 18420(a) of this Chapter. Multiply this base penalty by the applicable risk factor in subsection (h), Table 2.

(c) Storage and Disposal Violations at Permitted and Unpermitted Waste Tire Facility:

Use subsection (h), Table 3, to determine the penalty for each Division 7, Chapter 3, Article 5.5 violation. Add applicable penalty amounts, in accordance with the criteria set forth in Public Resources Code Section 42852, for all violations listed in Table 3 that exist at the waste tire facility.

(d) Capacity Violations at a Permitted Waste Tire Facility:

Use subsection (h), Table 4, to determine the base penalty for each capacity violation at a permitted waste tire facility. Multiply this base penalty by the applicable risk factor in subsection (h), Table 2.

(e) Permit Review Submittal Violations at a Permitted Waste Tire Facility:

Use subsection (h), Table 5, to determine the penalty for a permitted waste tire facility that fails to submit a Permit Certification or Revision Application to the Department by the required deadline. If a permitted waste tire facility fails to submit a Permit Certification or Revision Application to the Department within 180 days after the date the permit is due for review: the current permit shall be deemed expired, the operator shall remove all waste tire material onsite in excess of 499 passenger tire equivalents as that term is defined in Section 17225.770 of Title 14 of the California Code of Regulations, and the operator shall apply for a new waste tire facility permit before continuing operations.

(f) Financial Assurance Violations at a Permitted Major Waste Tire Facility:

Use subsection (h), Table 6, to determine the penalty for each Division 7, Chapter 6, Article 9 violation. Add applicable penalty amounts, in accordance with the criteria set forth in Public Resources Code Section 42852, for all violations listed in Table 6 that exist at the waste tire facility.

(g) Other Waste Tire Facility Violations:

(1) Use subsection (h), Table 7, to determine a penalty for each violation other than capacity, storage and disposal, permit review submittal, and financial assurance. Determine applicable penalty amounts, in accordance with the criteria set forth in Public Resources Code Section 42852, for all violations listed in Table 7 that exist at the waste tire facility.

(2) Use subsection (h), Table 7, to determine the penalty for a waste tire facility exempt or excluded from Department permitting requirements that fails to notify the Department as specified in Sections 18431.1 or 18431.2 of this Chapter.

(h) Penalty Tables:

Table 1: Unpermitted WT Facility: Capacity Penalties

Violation Type/Sequence	500-4,999 tires	5,000 – 9,999 tires	10,000 – 19,999 tires	20,000 – 49,999 tires	50,000 or more tires
1 st Negligent Act	\$500	\$1,000	\$1,500	\$2,000	\$3,000
2 nd and subsequent Negligent Act	\$2,000	\$2,500	\$3,000	\$3,500	\$4,000
1 st Intentional Act	\$1,000	\$2,000	\$3,000	\$4,000	\$6,000
2 nd Intentional Act	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000
3 rd and subsequent Intentional Act	\$6,000	\$7,000	\$8,000	\$9,000	\$10,000

Table 2 - Risk Factors

Waste Tire Facility Distance from Residential Home, Freeway, Major Road, Lake, River, Waterway, or Airport	Risk Factor for Negligent Act	Risk Factor for an Intention Act
More than 1-mile	.50	1.00
Within 1-mile, but more than 1,000 feet	.75	1.25
Within 1,000 feet	1.00	1.5

Table 3 - WT Facility: Storage and Disposal Penalties

14 CCR 17351	Fire Prevention Measures	\$500-\$5,000
14 CCR 17352	Facility Access and Security	\$500-\$5,000
14 CCR 17353	Vector Control Measures	\$500-\$5,000
14 CCR 17354	Storage of Waste Tires Outdoors	\$500-\$5,000
14 CCR 17356	Storage of Waste Tires Indoors	\$500-\$5,000

Table 4 - Permitted WT Facility: Capacity Penalties

Violation Type/Sequence	500-4,999 tires	5,000 – 9,999 tires	10,000 – 19,999 tires	20,000 – 49,999 tires	50,000 or more tires
1 st Negligent Act	\$500	\$1,000	\$1,500	\$2,000	\$3,000
2 nd and subsequent Negligent Act	\$2,000	\$2,500	\$3,000	\$3,500	\$4,000
1 st Intentional Act	\$1,000	\$2,000	\$3,000	\$4,000	\$6,000
2 nd Intentional Act	\$4,000	\$5,000	\$6,000	\$7,000	\$8,000
3 rd and subsequent Intentional Act	\$6,000	\$7,000	\$8,000	\$9,000	\$10,000

Table 5 - Permit Review Submittal Penalties

<i>Violation</i>	<i>Violation Description</i>	<i>Penalty</i>
14 CCR 18426	Submittal of Certification or Revision Application Within 30 Days of Notice (Minor Waste Tire Facilities)	\$1,000
14 CCR 18426	Submittal of Certification or Revision Application Within 30 Days of Notice (Major Waste Tire Facilities)	\$2,000
14 CCR 18426	Submittal of Certification or Revision Application Within 60 Days of Notice (Minor Waste Tire Facilities)	\$2,500
14 CCR 18426	Submittal of Certification or Revision Application Within 60 Days of Notice (Major Waste Tire Facilities)	\$6,000
14 CCR 18426	Submittal of Certification or Revision Application Within 120 Days of Notice (Minor Waste Tire Facilities)	\$5,000
14 CCR 18426	Submittal of Certification or Revision Application Within 120 Days of Notice (Major Waste Tire Facilities)	\$10,000

Table 6 - Permitted Major WT Facility: Financial Assurance Penalties

<i>Violation</i>	<i>Violation Description</i>	<i>Penalty Range</i>
14 CCR 18472	Closure Cost Estimate Adjustments	\$1,000 - \$10,000
14 CCR 18473	Acceptable Mechanisms and Combination of Mechanisms	\$1,000 - \$10,000
14 CCR 18474	Trust Fund	\$1,000 - \$10,000
14 CCR 18475	Surety Bond	\$1,000 - \$10,000
14 CCR 18476	Letter of Credit	\$1,000 - \$10,000
14 CCR 18477	Government Securities	\$1,000 - \$10,000
14 CCR 18478	Enterprise Fund	\$1,000 - \$10,000
14 CCR 18478.5	State Approved Mechanism	\$1,000 - \$10,000
14 CCR 18479	Substitution of Mechanisms by Operator	\$1,000 - \$10,000
14 CCR 18480	Bankruptcy of Other Incapacity of an Operator or Provider of Financial Assurance	\$1,000 - \$10,000
14 CCR 18481	Recordkeeping and Reporting Requirements	\$1,000 - \$10,000
14 CCR 18482	Release from Financial Assurance Requirement for Closure Cost	\$1,000 - \$10,000

Table 7 - Other Waste Tire Facility Penalties

Violation	Violation Description	Penalty Range
PRC 42824	Direct or Haul waste tries to, or accept waste tires at, Unpermitted Major Waste Tire Facility	\$1,000-\$10,000
PRC 42834	Direct or Haul waste tries to, or accept waste tires at, Unpermitted Minor Waste Tire Facility	\$500 - \$5,000
14 CCR 18423(a)	Permit Application Filing	\$500 - \$5,000
14 CCR 18427	Permit Revision (Major)	\$1,000 - \$10,000
14 CCR 18427	Permit Revision (Minor)	\$500 - \$5,000
14 CCR 18431.1	Permit Exemption (Exempt)	\$500 - \$10,000
14 CCR 18431.2	Permit Exclusion (Excluded)	\$500 - \$10,000
14 CCR 18440(a)	Closure Commencement (Meet Closure Requirements)	\$500 - \$5,000
14 CCR 18440(b)	Closure Commencement (Submit Updated Closure Plan)	\$500 - \$5,000
14 CCR 18440(c)	Closure Commencement (Approval of Major Waste Tire Facility Closure Plan prior to beginning of closure)	\$1,000 - \$10,000
14 CCR 18440(d)	Closure Commencement (Approval of Minor Waste Tire Facility Closure Plan prior to beginning of closure)	\$500 - \$5,000
14 CCR 18440(e)	Closure Commencement (Immediate Closure begins)	\$500 - \$5,000
14 CCR 18443	Inspection Access	\$500 - \$5,000
14 CCR 18447	Retention of Records	\$500 - \$5,000
14 CCR18470-18482	Financial Assurance Requirements for Closure of Major Waste Tire Facility	\$1,000 - \$10,000

(i) Total Penalty Calculation:

(1) Separate penalties shall accrue for each day of violation, as set forth in Public Resources Code Sections 42850 and 42850.1. Multiply each applicable violation penalty amount by the number of days of violation. Add the results for each violation to determine a total penalty amount.

(2) An unpermitted waste tire facility total penalty may not exceed maximum penalty amounts for each day of violation, as set forth in Public Resources Code Sections 42825 and 42835. Unpermitted waste tire facilities include Exempt or Excluded waste tire facilities as that term is defined in Section 17225.822 of Title 14 of the California Code of Regulations. For capacity violations at Exempt or Excluded waste tire facilities, calculate the amount of waste tires onsite that exceed the amount authorized by Public Resources Code Sections 42823.5(a) and 42831, Sections 18420(a) and 18431.3 of Title 14 of the California Code of Regulations, or other amounts authorized by the Department.

(3) Penalties for 2nd and Subsequent Negligent Acts, and Intentional Acts, may be

assessed against an operator and/or owner as provided in Tables 1 and 4 when the operator and/or owner committed a prior violation at the same or a separate location.

Authority cited: Sections 40502, 42820 and 42830, Public Resources Code.

Reference: Section 42825, 42835, 42850, 42852, Public Resources Code.

Section 18430. Reinstatement of Suspended and Revoked Permits. [Repealed]

Article 4. Permit Application, Exemption, Exclusion, and Beneficial Reuse

Section 18431. Permit Application.

An application for a new permit or revision of an existing permit, for a major waste tire facility, shall include items (a) through (h) of this Section. An application for a new permit or revision of an existing permit for a minor waste tire facility permit shall include items (a) through (d), and (h) of this Section. An application for revision shall only include all items (a) through (h) that describe the change being made at the waste tire facility.

(a) A complete and correct form CalRecycle 500 "Waste Tire Facility Permit Application" (6/14), which is incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(b) A complete and correct form CalRecycle 501 "Waste Tire Facility Operation Plan" (6/14) as specified in Section 18432 of this Article, which is incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(c) A complete and correct form CalRecycle 502 "Waste Tire Facility Environmental Information" (6/14), which is incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(d) A complete and correct form CalRecycle 503 "Waste Tire Facility Emergency Response Plan" (6/14) as described in Section 18433 of this Article. This form is incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(e) A complete and correct form CalRecycle 504 "Waste Tire Facility Closure Plan" (6/14). This form is incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(f) A completed Reduction/Elimination Plan as specified in Section 18434 of this Article.

(g) Financial assurance mechanisms and operating liability as specified in Articles 9 and 10 of this Chapter. These Article 9 and 10 forms are incorporated herein by reference. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(h) Applicable permits and approvals.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 21068, 21082.2, 42821 and 42832, Public Resources Code and Sections 15002, 15064, and 15382, State CEQA Guidelines, Title 14, CCR, and Sections 65940 and 65941, Government Code.*

Section 18431.1. Permit Exemption.

(a) The following exempt waste tire facilities shall apply to the Department in writing for a permit exemption:

(1) For a cement manufacturing plant, the application for a permit exemption shall contain the information specified in Public Resources Code Section 42823.5(b).

(2) For a beneficial reuse project, the application for a permit exemption shall contain the information specified in Section 18431.3 of Title 14 of the California Code of Regulations.

(b) The application shall include a statement by the waste tire facility owner and/or operator that certifies under penalty of perjury that the information provided in the application is true and correct to the best of the owner's and/or operator's knowledge and belief.

(c) For purposes of compliance with subsection (a), a handwritten, facsimile, or photocopied signature shall be treated as an original.

(d) The owner or operator of an exempt waste tire facility shall notify the Department in writing of the intent to cease operations thirty (30) days prior to discontinuing operations.

(e) A person responsible for discontinuing or dismantling an exempt waste tire facility shall meet all applicable requirements set forth in Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations to properly remove all tire material to an authorized facility, and shall notify the Department when the closure activity is complete.

Authority cited: *Sections 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 18431.2. Permit Exclusion.

(a) Any person wishing to operate a waste tire facility that is excluded from permitting requirements by Section 18420(a) (2), (4), (6), (7) or 18420.1 of Article 1 of this Chapter shall first notify the Department in writing. This notice shall be legible and shall include all of the following for each excluded waste tire facility:

(1) Tire Program Identification Number, assessor parcel number; property owner name, address, and telephone number; and operator name, address, and telephone number if different from the property owner.

(2) Citation of underlying statutes and California Code of Regulations Sections that authorize the waste tire facility permit exclusion; and a description of waste tire facility operations, including but not limited to, the average quantity of waste tires handled on an annual basis, and the hours of operation of the waste tire facility.

(3) A statement by the waste tire facility owner or operator that certifies under penalty of perjury that the waste tire facility complies with all required permits, licenses, and other local approvals, and the information provided in the statement is true and correct to the best of the owner's or operator's knowledge and belief.

(b) For purposes of compliance with subsection (a), a handwritten, facsimile, or photocopied signature shall be treated as an original.

(c) The owner or operator of an excluded waste tire facility shall notify the Department in writing of the intent to cease operations thirty (30) days prior to discontinuing operations.

(d) A person responsible for discontinuing or dismantling an excluded waste tire facility shall meet all applicable requirements set forth in Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations to properly remove all tire material to an authorized facility, and shall notify the Department when the closure activity is complete.

Authority cited: *Section 40502, 42820, 42830 and 43020, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830, 42832 and 43020, Public Resources Code.*

Section 18431.3. Beneficial Reuse Project.

(a) The Department may authorize the use of waste or used tires in a beneficial reuse project using whole or altered waste tires on a case-by-case basis, if it receives a written request prior to commencement of the reuse project.

(b) The Department shall issue either an approval or a denial of the beneficial reuse project to the requester within ninety (90) days of receipt of a completed request. The project may commence if the Department determines the project meets the requirements set forth in subsection (c).

(c) In order to qualify as a beneficial reuse project, the request shall include all of the following information:

(1) A description of how the project employs one or more engineering properties of waste tires,

(2) A description of how the use of waste or used tires in the project provides equal or superior performance or lower cost relative to conventional technologies,

(3) Evidence that the project does not pose a threat to public health, safety and the environment, and

- (4) Written approval of the proposed project by a registered civil engineer.
- (d) A person responsible for discontinuing or dismantling a beneficial reuse project shall:
- (1) Properly remove all tire material to an authorized facility, in accordance with Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations, and
 - (2) Notify the Department when the closure activity is complete.
- (e) A beneficial reuse project approved by the Department shall be exempt from the permitting and storage requirements set forth in Division 30, Part 3, Chapter 16 of the Public Resources Code, and Division 7, Chapters 3 and 6 of Title 14 of the California Code of Regulations.
- (f) This Section does not apply to the beneficial reuse of whole or altered waste tires as solid waste at a solid waste landfill as described in Division 2, Chapter 3, Article 2, Section 20686 of Title 27 of the California Code of Regulations.

Authority cited: *Section 40502, 43020 and 43021, Public Resources Code.*

Reference: *Sections 40052, 42808, 43020 and 43021, Public Resources Code.*

Section 18432. Operation Plan.

- (a) The Operation Plan, as required by 18431(b) shall demonstrate conformance with the technical standards contained in Division 7, Chapter 3, Article 5.5 of Title 14 of the California Code of Regulations.
- (b) The operator shall file amendments to the Operation Plan whenever necessary to keep the information contained in it current.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 41700, 42821 and 42832, Public Resources Code.*

Section 18433. Emergency Response Plan.

- (a) The operator of the waste tire facility shall maintain a copy of the Emergency Response Plan at the facility. At the time of permit issuance the approved Emergency Response Plan shall be forwarded to the local fire authority by the permittee. The plan shall be revised as necessary to reflect any changes in the operations of the waste tire facility or requirements of the local fire authority. The local fire authority and the Department shall be notified of any changes to the plan within 30 days of the revision.
- (b) The operator of the facility shall immediately notify the Department in the event of a fire or other emergency if that emergency has potential significant off-site effects. Within 30 days of any such emergency, the operator shall submit to the Department a written report describing the cause(s) of the emergency, the results of actions taken, and an analysis of the success or failure of these actions.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42821 and 42832, Public Resources Code.*

Section 18434. Reduction/Elimination Plan.

(a) The operator of a major waste tire facility shall submit a detailed plan and implementation schedule for the elimination or substantial reduction of existing tire piles pursuant to Public Resources Code Section 42821(b).

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42821, Public Resources Code.*

Section 18434. Reduction/Elimination Plan [Repealed]

Section 18435. Closure Plan [Repealed]

Article 5. Closure

Section 18440. Closure Commencement.

(a) The operator of a major or minor waste tire facility shall comply with the requirements of Section 18441 of this Article when closing the waste tire facility.

(b) The operator of a major waste tire facility shall submit to the Board for approval an updated Closure Plan (Part B), Form CIWMB 504 (9/02) as specified in Section 18442 of this Article, at least 120 days prior to the anticipated closure of the site. This time period shall not apply to facilities required to close in accordance with subsection (e).

(c) The operator of a major waste tire facility shall receive approval in writing from the Board of the updated Closure Plan, prior to beginning closure of the site.

(d) Operators of minor waste tire facilities shall receive written approval from the Board concerning the final planned disposition of waste tires prior to commencing closure. Approval shall be based upon the criteria in Section 18441(a)(3) of this Article.

(e) The operator of a major or minor waste tire facility shall cease to accept waste tires and shall immediately begin closure of the site in compliance with any closure conditions established in the permit and these regulations, and shall notify the Board in writing upon commencement, after receiving written approval from the Board in accordance with subsections (c) and (d), if:

(1) The waste tire facility permit expires and renewal of the permit is not applied for, or is revoked or denied; or

(2) A Board order to cease operation is issued; or

(3) The operator is unable to comply with the Articles in this Chapter or Article 5.5 of Chapter 3.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Section 42821 and 42832, Public Resources Code.*

Section 18441. Closure Conditions.

(a) In closing the waste tire facility, the operator shall:

(1) Close public access to the waste tire facility;

(2) Post a notice at the entrance indicating to the public that the site is closed and the location of a site where waste tires can be deposited;

(3) Remove all waste tires and tire residues in accordance with Article 8.5 of this Chapter to a destination facility(s) approved by the Board in the Closure Plan. Board approval of destination facilities, within the state, shall be based on the following criteria:

(A) Destination facilities eligible for approval by the Board shall use one or more of the methods delineated in Public Resources Code Section 42821(b). If waste tires are transported first to a collection facility, the operator of the closing facility shall provide documentation to the Board that the waste tires shall be transported from the collection facility to a destination facility approved by the Board, within 90 days of receipt of each shipment of waste tires from the closing facility.

(B) A Collection or destination facility shall meet the requirements of subsection (A), and the requirements associated with any of the following facility types:

(i) the facility is a solid waste disposal facility permitted in accordance with Section 18420(a) of Article 1; or

(ii) the facility is a major or minor waste tire facility permitted under this Chapter; or

(iii) the facility meets at least one of the requirements of Section 18420(a)(2) and (4)-(6) of Article 1 and it meets the requirements of Section 18420(b) of Article 1.

(4) Remove any debris to a recycling facility or a permitted solid waste disposal site; and

(5) Notify the Board when the closure activities are completed and the site is ready for inspection, and furnish the Board with manifests and trucking receipts or other documentation that tires and tire residues have been removed from the site and disposed of properly.

(b) After receiving notification that site closure is complete, the Board may inspect the site. If all procedures have been completed in accordance with these regulations, and the waste tires have been transported to an approved destination facility if the waste tires were first transported to a collection facility as specified in Section 18441(a) of this Article, the Board shall approve the closure of a major waste tire facility in writing.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42821 and 42832, Public Resources Code.*

Section 18442. Closure Plan [Repealed]

Article 6. Inspection Of Waste Tire Facilities

Section 18443. Inspection.

(a) The Board and/or the Enforcement Agency (EA) for the jurisdiction in which the waste tire facility is located shall inspect waste tire facilities for compliance with the applicable waste tire storage and disposal standards and any terms and conditions specified in the waste tire facility permit.

(b) Prior to the initial issuance, renewal, or revision of a major or minor waste tire facility permit the Board or the EA shall inspect the facility. After the issuance of a permit, a major waste tire facility shall be inspected by the EA at least once annually. Minor waste tire facilities shall be inspected at least once every two and a half years.

(c) Reports of inspections conducted by the EA shall be submitted to the Board within 30 days of the date of inspection. If the inspection identifies a violation of the permit that is an endangerment to public health, safety or the environment, the EA shall file an inspection report within 7 days of the inspection.

(d) Upon presentation of proper credentials, the Board or an authorized Board employee or agent, shall be allowed to enter the facility during normal working hours to examine and copy books, papers, records, or memoranda pertaining to the facility, and to conduct inspections and investigations pertaining to the facility.

Authority cited: *Sections 40502, 42820, 42821, 42830, and 42832, Public Resources Code.*

Reference: *Sections 42825, 42834, 42835, 42845, Public Resources Code.*

Article 7. Records

Section 18445. Record Keeping [Repealed]

Section 18447. Retention of Records.

Copies of all records required to be kept under this Chapter shall be retained by the operator for three (3) years and shall be made available at the site during normal business hours for inspection and photocopy by any representative of the Board or any individual authorized by the Board.

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42820, 42821, 42830 and 42832, Public Resources Code.*

Section 18448. Certification of Records.

(a) All records, summaries or reports submitted to the Board as required by this Chapter shall be signed by a person responsible for preparing and reviewing such documents as part of his or her duties in the regular course of business.

(b) Any person signing a document submitted under this Chapter shall make the following certification:

"I certify that this document and all attachments were prepared under my direction or supervision. I have inquired of the person or persons who manage the system or those persons directly responsible for gathering the information, and certify that the information submitted is, to the best of my knowledge and belief, true, accurate, and complete."

Authority cited: *Sections 40502, 42820 and 42830, Public Resources Code.*

Reference: *Sections 42821, and 42832, Public Resources Code.*

Article 8.5. Waste Tire Hauler Registration and Manifesting Requirements for Waste and Used Tire Haulers Retreaders, Waste and Used Tire Generators, and Waste and Used Tire End-Use Facilities

Section 18449. Scope.

(a) This Article specifies the procedures for waste tire hauler registration and tire manifest system requirements for used and waste tire haulers, retreaders, used and waste tire generators, and end-use facilities, including reporting and documentation requirements.

(b) In addition to the regulations in this Article, statutory provisions contained in Sections 42950 through 42967 of the Public Resources Code govern the Waste Tire Hauler Registration Program.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Section 42950 et seq., Public Resources Code.*

Section 18450. Definitions.

(a) For the purposes of this Article, the definitions found in: Public Resources Code Sections 42950-42967; and Chapter 3, Article 4.1, of this Division (commencing with Section 17225.701); and the following shall apply:

(1) "Board" means the California Integrated Waste Management Board, which, as of January 1, 2010, ceased to exist as a Board and became part of (subjoined into) a new Department of Resources Recycling and Recovery (CalRecycle).

(2) "Bond" means a surety bond issued by a California admitted insurance carrier.

(3) "Business Name" means the name of the operation registered with the local government of the State of California; the business license name.

(4) "Calendar Year" means January 1 through December 31 of any year.

(5) "CalRecycle" means the Department of Resources Recycling and Recovery, which is vested with the authority, duties, powers, purposes, responsibilities and jurisdiction of the former California Integrated Waste Management Board. CalRecycle is also referred to in these regulations as the "Department."

(6) "CIWMB" means the California Integrated Waste Management Board, which, as of January 1, 2010, ceased to exist as a Board and became part of (subjoined into) a new Department of Resources Recycling and Recovery (CalRecycle).

(7) "Civil Penalty" means a fine assessed as a result of a violation of an applicable provision.

(8) "Collection Location" means a location on which tires are being stored in collection in accordance with subsection 18420.1 (a), and includes the containers in which tires are placed and the area surrounding the containers on which tires are temporarily placed during unloading, sorting, and loading.

(9) "Commingled" means inextricably mixed together, in that the waste components cannot be economically or practically separated.

(10) "Common Carrier" means every common carrier as described in Public Utilities Code Section 211 with a motor vehicle transportation business that offers service to the general public and hauls a commodity other than waste or used tires to an original destination point and then transports waste or used tires on the return part of the trip. The revenue derived from transporting the waste or used tires shall be incidental when compared to the revenue earned by the common carrier as stated in Public Resources Code Section 42954(a)(6). For purposes of this Chapter, incidental revenue means 10% or less of total annual revenue.

(11) "Comprehensive Trip Log" or "CTL" means the California Uniform Waste and Used Tire Manifest System form developed by the Department pursuant to Public Resources Code, Section 42961.5. The Comprehensive Trip Log is attached hereto as Appendix A (CalRecycle 203, 7/10) and incorporated by reference herein. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(12) "Decal" see "Waste Tire Hauler Decal" as defined in this Section.

(13) "Electronic report" means electronic submittal of manifest information to the Department by means of electronic data transfer or web-based data entry in accordance with the requirements set forth in Section 18459.1.2.

(14) "Electronic Data Transfer Form" or "EDT Form" means a paper reporting form, approved by the Department, that is used by the hauler or responsible party for reporting manifest information in lieu of the required Comprehensive Trip Log. The EDT Form will contain the information required on the Comprehensive Trip Log.

(15) "End-Use Facility" means the facility where waste or used tires are unloaded and/or accepted.

(16) "Facility" means a waste tire facility, as defined in Public Resources Code Section 42808, a facility authorized to accept waste or used tires pursuant to a state or local agency permit, or a facility which lawfully accepts waste or used tires as authorized under Section 18420 of Title 14 of the California Code of Regulations.

(17) "Generator" see "Waste or Used Tire Generator" as defined in this Section.

(18) "Hauler" see "Waste or Used Tire Hauler" as defined in this Section.

(19) "Load" means a single transaction (a pick up or delivery) of waste or used tires between the hauler and generator, or the hauler and end-use facility. There may be one or more loads on a trip.

(20) "Local Government" means a county, city, city and county, special district, joint powers agency or other political subdivision of the state.

(21) "Manifest Form" means Comprehensive Trip Log (CalRecycle 203, 7/10) or EDT Form. Except as otherwise provided by this Article, the Manifest Form shall be completed by the waste tire hauler which shall accompany each transported shipment of waste or used tires.

(22) "New Tire Adjustment" means return or replacement of a new tire that is defective or damaged to the manufacturer or wholesale distributor.

(23) "Person" includes an individual, sole proprietorship, co-partnership, Limited Liability Company, corporation, political subdivision, government agency, or municipality.

(24) "Place of Business" means the actual physical location where waste or used tires are picked up from, delivered to, or stored.

(25) "Port Terminal" means a wharf, bulkhead, quay, pier, dock or other berthing location, and adjacent storage areas and structures associated with primary movement of cargo or materials from vessel-to-shore or shore-to-vessel. A port terminal includes, but is not limited to:

(A) Structures devoted to receiving, handling, holding, consolidating and loading or delivery of waterborne shipments or passengers,

(B) Areas devoted to maintenance of the terminal or its equipment, and

(C) Production or manufacturing areas, warehouses, storage facilities, and private or public businesses or entities located on or surrounded by port property.

(26) "Registration" see "Waste Tire Hauler Registration" as defined in this Section.

(27) "Registered Vehicle Owner" means the person in whom title is vested and/or to whom the vehicle is registered with the Department of Motor Vehicles for any jurisdiction, domestic and foreign, in which the vehicle is registered.

(28) "Retreader" means a business, person, entity, individual, sole proprietorship, co-partnership, Limited Liability Company, or corporation, who is in the business of retreading or recapping tire casings for reuse. The retreader shall have a Manufacturer 3-Digit Identification issued by the United States Department of Transportation pursuant to Title 49, Code of Federal Regulations, Section 574.5. If the retreader is a registered waste tire hauler, they shall comply with all waste tire hauler requirements. Retreaders shall maintain for three (3) years, records of all CalRecycle forms whether currently used or documents that have been replaced by other forms.

(29) "Revenue" is annual net income earned.

(30) "Tire Casing" is the carcass of a reusable tire that after inspection can be retreaded or recapped by a retreader. For purposes of this Article, each tire casing is considered to be a separate waste or used tire.

(31) "Tire Program Identification Number" or "TPID" is a unique CalRecycle assigned number for each waste or used tire hauler, each business location from which waste or used tires are generated, and for each location where waste or used tires are transported to as an end-use facility.

(32) "Trip" means the hauling of waste or used tires that begins with a waste tire hauler's first pick-up of waste or used tires from a generator and ends with the hauler's last delivery of waste or used tires to an end-use facility, but in no case shall a trip exceed five (5) consecutive days.

(33) "Unregistered Hauler & Comprehensive Trip Log Substitution Form" is the form to be completed by the generator and end-use facility pursuant to the requirements set forth in Sections 18461(b) and 18462(c). The Unregistered Hauler & Comprehensive Trip Log Substitution Form is attached hereto as Appendix A (CalRecycle 204, New 08/05) and incorporated by reference herein. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(34) "Used Tire" in accordance with Public Resources Code Section 42950(k) means a tire that meets both of the following requirements:

(A) The tire is no longer mounted on a vehicle but is still suitable for use as a vehicle tire.

(B) The tire meets the applicable requirements of Title 13 (Motor Vehicles) of the California Code of Regulations.

(35) "Vehicle Description" includes the year, the model, the make of the vehicle, Vehicle Identification Number as defined in California Vehicle Code Section 671, and Vehicle License Plate Number, including state of issuance, as defined in California Vehicle Code Section 4850(a). Trailers as defined in Vehicle Code Section 630 are not eligible for registration.

(36) "Waste or Used Tire Generator," "Waste Tire Generator" or "Generator" means any

person whose act or process produces any amount of waste or used tires, causes a waste or used tire hauler to transport those waste or used tires, or otherwise causes waste or used tires to become subject to regulation.

(A) Any person meeting the definition of a Waste or Used Tire Generator above who causes to be transported 10 or more waste or used tires in a single load shall meet the requirements set forth in subsections 18462(a) through (c) of this Chapter.

(B) Any person meeting the definition of a Waste or Used Tire Generator above who causes to be transported 9 or less waste or used tires in a single load shall meet the requirements set forth in subsections 18462(a) through 18462(d) of this Chapter.

(37) "Waste or Used Tire Hauler" or "Hauler" means any person engaged in the transportation of waste or used tires, or tire casings, including haulers that the Department approved as exempt from registration pursuant to Public Resources Code Section 42954.

(38) "Waste Tire" in accordance with Public Resources Code Section 42950(l) means a tire that is no longer mounted on a vehicle and is no longer suitable for use as a vehicle tire due to wear, damage, or deviation from the manufacturer's original specifications. A waste tire includes a repairable tire, scrap tire, and altered waste tire, but does not include a tire derived product, crumb rubber, or a used tire.

(39) "Waste Tire Hauler Decal" or "Decal" means a self-adhesive tag with a unique serial number issued annually by the Department, that the registered hauler shall affix to the inside lower, right-hand corner of the windshield of the vehicle for which the decal was issued.

(40) "Waste Tire Hauler Registration" means the documents, including the decal and registration form, issued by the Department, which authorizes the holder of the documents to legally haul waste or used tires within California for the period of issuance.

(41) "Waste Tire Manifest System" means the California Uniform Waste and Used Tire Manifest System authorized by Section 42961.5 of the Public Resources Code, which includes the Comprehensive Trip Log and all procedures and regulations applicable to the transportation of the waste or used tires from point of origin to final destination of the waste or used tires.

Authority cited: Sections 40400, 40401, 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 40110, 40400, 40401, 42950, 42951, 42952, 42954, 42955, 42956, 42958 and 42961.5, Public Resources Code.

Section 18451. Applicability of These Regulations.

(a) Waste tire haulers, retreaders, waste tire generators, and end-use facilities shall comply with these regulations, unless exempted by Section 42954 of the Public

Resources Code and applicable procedures set forth in Sections 18452.1-18453.2.

(b) The return of new tire adjustments to the wholesale distributor or manufacturer under “warranty consideration” is not considered used or waste tire hauling for the purposes, implementation, and enforcement of this Article. The person transporting the tires must have in the vehicle, documentation substantiating that the tires are being returned for “warranty consideration.” Lack of documentation or false information will subject the transporter to enforcement and penalties under this Article.

(c) “Tire Derived Product” being transported from the processing facility to the end-use facility is not considered used or waste tire hauling for the purposes, implementation, and enforcement of this Chapter. The hauler shall have a copy of the letter issued by the Department to the processing facility stating that the material is “Tire Derived Product” and a bill of lading accompanying the load. The letter and bill of lading shall be carried in the vehicle while transporting the “Tire Derived Product” from the processing facility to the end-use facility. Lack of documentation or false information will subject the transporter to enforcement and penalties under this Chapter.

(d) New tires, pneumatic or solid, that have never been driven on by any vehicle, discarded tires from electric wheelchairs, and solid plastic forklift tires are not considered used or waste tires under this Chapter. All other used or waste tires including those from aircraft, motorcycles, and heavy equipment tires are subject to the requirements of this Chapter.

(e) The “beneficial use hauling of used or waste tires” is defined as using the used or waste tires as bumpers or cushions to stabilize or protect the goods or materials being transported; or where the used or waste tires are used as bumpers or cushions during the normal course of hauling. Beneficial use hauling shall not be considered used and waste tire hauling for the purposes of this Article.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42951, 42952, 42953 and 42954, Public Resources Code.

Section 18452. Exemptions from Registration As a Waste Tire Hauler. [Repealed]

Section 18452.1. Exemption Certification for Beneficial Use Hauling of Used or Waste Tires.

(a) A person wishing to qualify for an exemption from waste tire hauler registration under Sections 18451(e) shall certify in writing to the Department under penalty of perjury that they qualify for the beneficial use hauling exemption. This certification shall contain the following information:

- (1) The name of the individual and/or business.
- (2) The mailing address for the individual and/or business.
- (3) The name of the contact person.

(4) The telephone number of the contact person.

(5) The number of vehicles used.

(6) The description of the business operation, including why the beneficial use exemption should be considered.

(7) A certification statement by the operator as follows: "The undersigned certifies under penalty of perjury under the laws of the State of California that the information provided herein is true and correct."

(8) The name and signature of the authorized agent on behalf of the business.

(9) The date of certification.

(b) Upon receipt of the certification letter, the Department will notify the applicant within 30

days if the certification for exemption is either:

(1) incomplete, and if so, what specific information is required,

(2) granted,

(3) denied, and if so, the reason(s) for denial.

(c) If the beneficial uses hauling exemption is granted, the Department shall issue a nontransferable Beneficial Use Hauling exemption letter to be carried in the vehicle(s) used to transport the used or waste tires. This document may be issued for a period of up to five years on a case by case basis. Failure to have a copy of this Exemption Letter in possession while transporting used and waste tires may subject the hauler to citation for unregistered used and waste tire hauling by local law enforcement and/or civil or administrative penalties by the Department.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Section 42954, Public Resources Code.

Section 18453. Exemption Certification for Agricultural Purposes or Common Carrier.

(a) A person wishing to qualify for an exemption from waste tire hauler registration under Public Resources Code Sections 42954(a)(5) and 42954(a)(6) shall complete and submit the Application for Agricultural/Common Carrier Exemption Letter, (CalRecycle 241, 01/08) which is attached hereto as Appendix A and incorporated by reference herein, to the Department under penalty of perjury to qualify for an exemption from registration as a waste tire hauler for agricultural purposes or as a Common Carrier.

(b) Upon receipt of the Application for Agricultural/Common Carrier Exemption Letter (CalRecycle 241), the Department will notify the applicant within 30 days if the

certification for exemption is either:

- (1) incomplete, and if so, what specific information is required,
- (2) granted,
- (3) denied, and if so, the reason(s) for denial.

(c) If the agricultural purposes exemption or common carrier exemption is granted, the Department shall issue a non-transferable exemption document to be carried in the vehicle(s) used to transport the used or waste tires.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Section 42594, Public Resources Code.*

Section 18453.1. Cost to Receive an Exemption from Waste Tire Hauler Registration.

No fee is to be paid to the Board to certify an exemption from waste tire hauler registration.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Section 42594, Public Resources Code.*

Section 18453.2. Valid Agricultural and Common Carrier Exemption Period and Renewal.

(a) An exemption as described under Public Resources Code Sections 42954(a)(5) and 42954(a)(6) shall be valid up to five years from the date of approval provided that the information relied upon to qualify for the exemption remains unchanged.

(b) A person wishing to continue to qualify for an exemption from waste tire hauler registration under Sections 42954(a)(5) and (a)(6) of the Public Resources Code shall renew the certification by submitting an application to the Department in accordance with the requirements in Section 18453.

(c) All exemption applications shall be submitted 45 days prior to the expiration date. Renewed exemptions are valid for up to five years.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Section 42594, Public Resources Code.*

Section 18453.3. When Should an Exemption Be Renewed? [Repealed]

Section 18454. Waste Tire Hauler Initial Registration.

(a) Any person hauling 10 or more used or waste tires shall apply for a waste tire hauler registration, unless exempt pursuant to Section 18451, by submitting to the Department a completed original form CalRecycle 60 (1/08) "Waste Tire Hauler Registration Application," which is attached hereto as Appendix A (CalRecycle 60, 1/08) and

incorporated by reference herein and form CIWMB 61 "Waste Tire Hauler Bond" (1/08), which is attached hereto as Appendix A (CIWMB 61 1/08) and incorporated by reference herein.

- (1) For purposes of Public Resources Code Section 42960, it is presumed that any person transporting used or waste tires under a valid registration issued by the Department is an agent of the registered waste tire hauler.
- (b) An application may be submitted at any time.
- (c) The initial waste tire hauler registration is valid from the date of issuance to January 1 of the following year.
- (d) The waste tire hauler is not authorized to haul used or waste tires after the January 1 expiration date unless the waste tire hauler has applied to renew the waste tire hauler registration prior to expiration and has received the Department issued renewal registration card(s) and vehicle decal(s).
- (e) There is no fee paid to the Department to apply for an initial waste tire hauler registration.
- (f) The registration card and/or decal issued to a specific vehicle are not transferable from vehicle to vehicle. They shall be present in the vehicle to which they were issued.
- (g) A used or waste tire hauler registration is not transferable by the person to whom it was issued to any other person.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42952, 42954, 42955, 42956 and 42958, *Public Resources Code*.

Section 18454.1. Who Must Obtain an Initial Waste Tire Hauler Registration?
[Repealed]

Section 18454.2. When Should I Obtain an Initial Waste Tire Hauler Registration?
[Repealed]

Section 18454.3. How Long Is the Initial Waste Tire Hauler Registration Valid?
[Repealed]

Section 18454.4. How Do I Obtain an Initial Waste Tire Hauler Registration?
[Repealed]

Section 18454.5. Are There any Costs for the Initial Waste Tire Hauler Registration? [Repealed]

Section 18455. Waste Tire Hauler Renewal Registration.

- (a) Any person may apply for renewal of a waste tire hauler registration by submitting to the Department a new completed form CalRecycle 60. If the waste tire hauler bond has

expired or has been cancelled, a new bond must also be submitted with the renewal application.

(b) All renewed waste tire hauler registrations expire annually on January 1.

(c) The waste tire hauler who wishes to continue to operate as a waste tire hauler shall submit an application for a renewed waste tire hauler registration. This application shall be received by the Department no later than 45 days prior to the January 1 expiration date.

(d) The waste tire hauler is not authorized to haul used or waste tires after the January 1 expiration date unless the waste tire hauler has applied to renew the waste tire hauler registration prior to expiration and has received Department issued renewal registration card(s) and vehicle decal(s).

(e) There is no fee paid to the Department to apply for a renewed waste tire hauler registration.

(f) The registration card and/or decal issued to a specific vehicle are not transferable from vehicle to vehicle. They shall be present in the vehicle to which they were issued.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42955, 42956 and 42958, Public Resources Code.

Section 18455.1. How do I Renew the Waste Tire Hauler Registration? [Repealed]

Section 18455.2. When Should I Renew a Waste Tire Hauler Registration? [Repealed]

Section 18455.3. Are There any Costs for Renewal of the Waste Tire Hauler Registration? [Repealed]

Section 18456. Waste Tire Hauler Registration Application.

(a) Copies of forms CalRecycle 60 and CIWMB 61 can be obtained by contacting the Department of Resources Recycling and Recovery (CalRecycle), Tire Hauler Compliance Section, Compliance Evaluation and Enforcement Division, P.O. Box 4025, Sacramento, CA 95812 or accessing the Department of Resources Recycling and Recovery (CalRecycle) website located at www.calrecycle.ca.gov/Tires.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42951, 42952, 42954, 42955, 42956 and 42958, Public Resources Code.

Section 18456.1. Waste Tire Hauler Surety Bond Application Process.

(a) The initial application shall be accompanied by an original surety bond in the amount of \$10,000 on behalf of the business owner in favor of the State of California ("surety bond"). The surety bond shall be completed by the insurance agent or bonding agent on form CIWMB 61. The surety bond shall be issued in the business name of the business

owner as it appears on the application for registration as a waste tire hauler. The surety bond must be signed by a representative of the applicant.

(b) The surety bond shall remain in full force and effect during all registration periods. Failure to maintain an adequate bond pursuant to Public Resources Code Section 42955(d), shall result in automatic cancellation of the waste tire hauler registration. The cancelled registration may be reinstated by the Department when a new surety bond is posted.

(c) The surety company shall be licensed by the California Department of Insurance to transact the business of surety bonding in the State of California as an admitted insurance carrier.

(d) If coverage is not available as specified in Subsection (c) above, the waste tire hauler may seek coverage by a surety which, at a minimum, shall be eligible to provide surety bonds as an excess or surplus lines surety in California.

(e) If coverage is obtained as described in Subsection (d), the surety shall be transacted by and through a surplus line broker currently licensed under the regulations of the California Department of Insurance and upon the terms and conditions prescribed in the California Insurance Code (CIC), Division 1, Part 2, Chapter 6.

(f) The Department or its designee may reasonably object to the use of any surety at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non-Admitted Insurers Quarterly List.

(g) The surety company shall become liable under the terms of the bond if the Department determines that the waste tire hauler has failed to comply with the provisions of Public Resources Code Section 42950 et. seq. or these regulations. The registered waste tire hauler is jointly and severally liable for the bond amount and any penalties, clean-up costs, or judgments resulting from hauling activities in violation of the Public Resources Code that exceed the bond amount.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42951, 42952, 42955 and 42958, Public Resources Code.

Section 18456.2. Waste Tire Hauler Registration Process.

(a) The Department shall inform an applicant in writing within 30 days from the date of receipt that the application is any of the following:

(1) incomplete and what specific information is required to complete the application;

(2) complete and approved with registration documents and vehicle decals;

(3) denied and the reason(s) for denial pursuant to the Public Resources Code Section 42960.

(b) Upon approval of the initial or renewal application, the Department will provide proof of registration in the form of decals and registration cards to the waste tire hauler. The Department will issue a waste tire hauler registration card and decal for each vehicle identified in the application. The registration card shall be carried in the corresponding vehicle. The decal shall be permanently affixed to the common passenger side, inside lower right hand corner of the windshield before hauling tires for that calendar year.

(c) Registration cards and decals are not transferable from vehicle to vehicle. They shall be present in the vehicle to which they were issued.

(d) All drivers of registered used or waste tire hauler vehicles shall maintain a valid driver's license. The use of unlicensed drivers is grounds for discipline against the used or waste tire hauler registration.

(e) All registered used or waste tire hauler vehicles shall maintain a current Department of Motor Vehicles registration. The use of a motor vehicle that does not have a valid motor vehicles registration is grounds for discipline against the used or waste tire hauler registration.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42952, 42955, 42956, 42958 and 42961, *Public Resources Code*.

Section 18456.2.1. Retreader Self-Certification Process. [Repealed]

Section 18456.3. Changes in Information Provided or Lost Registration Documents.

(a) The waste tire hauler shall file a supplemental application to add or remove vehicle(s) on form CalRecycle 60. The application shall be filed and approved by the Department before a vehicle is allowed to haul used or waste tires.

(b) The Department shall inform the applicant in writing within 30 days that the application for an added vehicle is any of the following:

(1) incomplete and what specific information is required to complete the application;

(2) complete with registration document(s) and vehicle decal(s).

(3) denied and the reason(s) for denial.

(c) In the event of a change in ownership of the waste tire hauler business:

(1) The owner shall notify the Department in writing 45 days prior to the change in ownership.

(2) The new owner shall apply for and obtain a waste tire hauler registration in accordance with Section 18454.

(3) The new owner may begin hauling used or waste tires when he/she has received the registration documents and vehicle decal(s) from the Department.

(4) The Department will process the change in ownership in accordance with Section 18456.2.

(5) Registrations are nontransferable.

(d) Every registered waste tire hauler shall notify the Department on a form CalRecycle 60 of any change in the business name, business owner, facility address, mailing address, phone number, or vehicle ownership. Notice shall be given no more than ten (10) days after the change.

(e) The registered waste tire hauler shall submit a renewal application for any vehicle(s) for which decal(s) or registration(s) documents were lost. The Department will process the application as a renewal application under Section 18455.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42952, 42955, 42956 and 42958, *Public Resources Code*.

Section 18456.4. Temporary Registration of Alternate Vehicles.

(a) Upon request, the Department may issue a single temporary registration certificate, specifically assigned to that registered waste tire hauler, once the Department has deemed a new waste tire hauler application complete or at the time of the yearly renewal. This certificate, for the use of a temporary vehicle, shall bear the hauler's company name, address, registration number, unique decal number, and the year the certificate is valid.

(1) A waste tire hauler may request one additional temporary registration certificate for each 10 vehicles registered.

(b) The certificate shall be shown upon demand to any representative of the Department, any officer of the California Highway Patrol, any peace officer, as defined in Sections 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Department.

(c) The registered waste tire hauler shall notify the Department in writing within two (2) calendar days of when the temporary registration certificate is used by completing and submitting form CalRecycle 682 "Notification of Use of Temporary Registration Certificate", which is attached hereto as Appendix A (CalRecycle 682, Rev. 1/08) and incorporated by reference herein. (See 14 CCR Division 7, Chapter 9, Article 9.3, Appendix A.)

(d) Upon request by the Department or an authorized representative of the Department, the hauler shall immediately surrender the certificate by mail, or by hand-delivery, to Department staff or the authorized representative, if the Department's Tire Hauler Compliance Program determines that the temporary registration certificate was

misused.

(1) The temporary registration certificate holder may file a written appeal to the Director within 15 days of receipt of a determination. The Director will issue a decision within 30 days of the appeal and the Decision will be mailed by certified or registered mail. The Director may delegate his or her duties under this Section to any employee of the Department.

(2) Misuse of the temporary registration certificate is defined as failure to inform CalRecycle within 48 hours after using the temporary registration certificate, transferring or allowing the use of the temporary registration certificate by any other person not included in the registration holder's vehicle list, or the use of the temporary registration certificate after its expiration date.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42952, 42955, 42956 and 42958, *Public Resources Code*.

Section 18456.6. What will the Board do with the Initial Waste Tire Hauler Registration Application Once it is Submitted for Review? [Repealed]

Section 18456.7. What will the board do with the Waste Tire Hauler Registration Renewal Application Once it is Submitted for Review? [Repealed]

Section 18456.8. When the Waste Tire Hauler Registration Application is Approved, What Documents Will be Provided to Me? [Repealed]

Section 18456.9. If an Applicant Wishes to Obtain Registration for an Additional Vehicle, Does a New Application Need to be Submitted? [Renumbered]

Section 18456.10. If a Registered Vehicle has been Sold or is no Longer Used for Waste Tire Hauling, Must I Inform the Board? [Renumbered]

Section 18456.11. How Do I Notify the Board of a Change in Business Ownership? [Renumbered]

Section 18456.12. Do I Need to Notify the Board if I Change my Address? [Renumbered]

Section 18456.13. What If I Lose the Decal(s) or Registration(s)? [Renumbered]

Section 18457. Waste Tire Hauler Registration Denial, Suspension, and Revocation.

(a) The Department may deny, suspend, or revoke a waste tire hauler registration for the following grounds:

(1) Failure to maintain a surety bond as required by Section 18455, and for the reasons stated in Public Resources Code Section 42960.

(2) Failure to pay a civil or administrative penalty imposed by the Department in accordance with the terms of the Department's Decision for a violation of Chapter 16 of

Part 3 of Division 30 (waste tire storage laws) or Chapter 19 of Part 3 of Division 30 of the Public Resources Code (used and waste tire hauler laws) or this Chapter 6 of Title 14 of the California Code of Regulations.

(3) The hauler has violated federal, state, or local laws as determined in a final decision by the federal, state, or local agency responsible for enforcing those laws, and the violation(s) is related to health, safety, or environmental concerns of the violator's waste tire hauler business.

(b) The Department may deny, suspend, or revoke a waste tire hauler registration pursuant to Public Resources Code Section 42960. The Department may deny an application of a new or renewed waste tire hauler registration by issuing a statement of issues in accordance with Government Code Section 11504. The denial is effective upon issuance of the statement of issues by the Department and can be overturned upon a decision by the Department.

(c) Upon suspension or revocation of the waste tire hauler registration, the waste tire hauler shall immediately return the decal(s) and registration card(s) to the Department.

(d) The waste tire hauler shall not transport used or waste tires, nor own, operate, or be an officer of a waste tire hauling business entity or corporation during the period of suspension or revocation. Any hauling of used and waste tires during the period of suspension or revocation will be a cause for denial, suspension, or revocation of the registration, and may subject the waste tire hauler to civil penalties pursuant to this chapter, and/or criminal penalties pursuant to the California Vehicle Code Section 31560.

(e) During the period of time for which a waste tire hauler's registration has been denied, suspended or revoked, neither the waste tire hauler, nor the waste tire hauler's vehicles, may be added to another waste tire hauler's registration. In addition, if the denial, suspension or revocation was the result of a particular driver'(s) actions, neither that driver, nor the driver's vehicles, may be added to another waste tire hauler's registration.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Sections 42951, 42952, 42955, 42960 and 42961, Public Resources Code.*

Section 18457.1. Waste Tire Hauler Registration Suspension. [Repealed]

Section 18458. Request for Hearing of Denial, Suspension, or Revocation of Waste Tire Hauler Registration.

(a) If the Board refuses to issue or renew (denies) a registration, or suspends, or revokes a waste tire hauler registration pursuant to Public Resources Code Section 42960, the waste tire hauler may appeal that decision and request a hearing in accordance with Government Code Sections 11505 to 11519. The request for a hearing must be in writing and received by the CIWMB Legal Office at P.O. Box 4025, Sacramento, CA 95812, within 30 days after receipt of the denial, suspension, or

revocation. The Board shall consider the original application, the reasons for denial, and any additional relevant information presented by the applicant. This decision shall be the final decision by the Board.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42952, 42955, 42960 and 42961, *Public Resources Code*.

Section 18458.1. What Steps Can I Take for Board Reconsideration of my Waste Tire Hauler Application? [Renumbered]

Section 18459. Waste Tire Manifest System Requirements.

(a) The Department will provide blank CalRecycle 203 (7/10) forms at the time of initial or renewed waste tire hauler registration. These forms will be provided at no cost. Additional forms may be obtained from the Department by request.

(1) In lieu of the first paragraph of subsection (a), if approved on an individual basis by the Department pursuant to Public Resources Code Section 42961.5, any person that is subject to the CTL Form requirements of this Section, may substitute their own functionally equivalent EDT form, once approved by the Department, in lieu of the Department required form and submit an electronic report within ninety (90) days of the load shipment to the Department. The hauler shall provide a copy of their Department approved form to the generator or end-use facility for every waste or used tire transaction.

(b) The Manifest Form shall be completed and signed under penalty of perjury by the appropriate representative, and accompany each shipment of waste or used tires from the point of origin to the facility.

(c) The following persons and entities shall comply with the Waste Tire Manifest System:

(1) waste or used tire haulers when hauling any amount of waste or used tires at any one time with a registered vehicle;

(2) waste or used tire generators;

(3) Federal, State, and local governments when hauling 10 or more waste or used tires at any one time;

(4) any person hauling 10 or more waste or used tires at any one time for agricultural purposes;

(5) exempted common carriers when hauling 10 or more waste or used tires at any one time;

(6) a facility when accepting 10 or more waste or used tires at any one time;

(7) any person not included in Section 18459(c)(1) through (6) who gives, contracts, or

arranges to have 10 or more waste or used tires transported;

(8) any person not included in Section 18459(c)(1) through (6) who accepts 10 or more waste or used tires;

(9) Retreaders when hauling any amount of waste or used tires at any one time with a registered vehicle.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42951, 42952, 42954, 42955, 42956 and 42958, Public Resources Code.

Section 18459.1. Tire Program Identification Number.

(a) On or after July 1, 2003, every waste tire generator shall apply for and obtain a CalRecycle assigned Tire Program Identification Number for each location from which used or waste tires are generated and transported from. Each separate business location shall be assigned a unique site specific Tire Program Identification Number. The Department shall issue a Tire Program Identification Number certificate for each location, which shall be posted by the operator in a conspicuous place.

(b) On or after July 1, 2003, every end-use facility shall apply for and obtain a CalRecycle issued Tire Program Identification Number for each location where used or waste tires are accepted. Each separate business location shall be assigned a unique site specific Tire Program Identification Number.

(c) Every waste tire hauler shall be assigned a CalRecycle issued Tire Program Identification Number, if not already assigned, at the time of registration.

(d) Every waste tire generator, or end-use facility shall submit written notification to the Department upon any change of business operator or owner, business name, business address, or mailing address within 10 days of the change.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42950, 42951, 42952, 42953, 42961.5 and 42962, Public Resources Code.

Section 18459.1.2. Electronic Data Transfer and Web-Based Data Entry Requirements.

(a) Pursuant to Public Resources Code Section 42961.5, any person may submit electronic reports to the Department in lieu of the required Comprehensive Trip Log requirements with the following provisions:

(1) The business entity shall complete and sign the application for the Electronic Data Transfer/Web Based Data Entry Program.

(2) The business shall be in good standing with the Department and have no final administrative, civil, or criminal actions taken by the Department or its representatives

for violations of Chapter 3, Article 5.5 or Chapter 6 of these regulations.

(3) The waste tire generator, waste tire hauler, or end-use facility must demonstrate that they have sufficient technical competency to process and transmit the required information electronically.

(4) The Business entity may use their own functionally equivalent form, once approved by the Department, in lieu of the Department required form.

(b) The Department may at any time terminate the businesses' eligibility to use electronic reporting based on violations of (a) or (c).

(c) Any falsification, misrepresentation, or omission of a fact to the Department, or its representative in the application for the Electronic Data Transfer/Web Based Data Entry Program or the electronic transmission of manifest information may be cause to terminate the business' eligibility to participate in either the Electronic Data Transfer or Web-Based Data Entry Programs.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Sections 42950, 42951, 42952, 42953, 42961.5, and 42962, Public Resources Code.*

Section 18459.2. Waste Tire Hauler Manifest Form Signature Requirements. [Repealed]

Section 18459.2.1. Submittal of the Manifest Form to the Department.

As provided in this Section, the Manifest Form as defined in Section 18450 of this Article shall be submitted to the Department by the waste tire hauler.

(a) The waste tire hauler shall submit the completed original CTL Form to the Department within ninety (90) days of the load shipment. The Manifest Form shall be in the waste tire hauler's possession while transporting used or waste tires and shall be shown upon demand to any representative of the Department, any officer of the California Highway Patrol, any peace officer, as defined in Sections 830.1 or 830.2 of the California Penal Code, or any local public officer designated by the Department.

(b) If approved by the Department pursuant to Public Resources Code Section 42961.5, any person that is subject to the requirements set forth in above (a) may substitute their own functionally equivalent EDT form, once approved by the Department, in lieu of the Department required form and submit an electronic report within ninety (90) days of the load shipment to the Department, in lieu of submitting the required paper form pursuant to Section 18459.1.2. The electronic report shall include all information required to be on the CTL Form.

Authority cited: *Sections 40502, 42966 and 43020, Public Resources Code.*

Reference: *Sections 42950, 42951, 42952, 42953, 42961.5, and 42962, Public Resources Code.*

Section 18459.3. Maintenance of Manifest Forms.

(a) The waste tire generator, and end-use facility shall retain a copy of the completed Manifest Form at their place of business. Manifest Forms shall also be retained for three (3) years. These records shall be made available to any authorized representative of the Department upon request.

(b) The waste tire hauler shall retain a copy of the completed Manifest Form at their place of business for a period of three (3) years. These records shall be made available to any authorized representative of the Department upon request.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42950, 42951, 42952, 42953, 42961.5, and 42962, *Public Resources Code*.

Section 18459.4. Who Signs the Manifest? [Renumbered]

Section 18459.5. Who Receives Copies of the Manifest and When? [Renumbered]

Section 18459.6. Who Keeps Copies of the Manifest and for How Long? [Repealed]

Section 18459.7. Where Do I Get Waste Tire Hauler Manifest Forms CIWMB-62? [Repealed]

Section 18460. Waste Tire Hauler Manifest System Requirements [Repealed]

Section 18460.1. Waste Tire Manifest System Requirements for Agricultural Uses Exemption.

(a) As provided in Section 18459(b), the agricultural exempt waste tire hauler shall not transport 10 or more used or waste tires without having a copy of the Manifest Form in the vehicle while transporting the used or waste tires. The Manifest Form shall be shown upon demand to any representative of the Department, any officer of the California Highway Patrol, any peace officer, as defined in Sections 830.1 or 830.2 of the Penal Code, or any local public officer designated by the Department.

(b) The agricultural exempt waste tire hauler shall leave one copy of the Manifest Form with the waste tire generator, or end-use facility after the form has been completed with the required information.

(c) The agricultural exempt waste tire hauler shall submit the completed Manifest Form to the Department within ninety (90) days of the load shipment. The Manifest Form shall contain the signature of the agricultural exempt waste tire hauler representative.

(d) The agricultural exempt waste tire hauler may destroy the "hauler" copy of the Manifest Form upon reaching the end-use facility.

(e) The agricultural exempt waste tire hauler shall not haul used or waste tires to an end-use facility not legally authorized to accept used or waste tires.

(f) The agricultural exempt waste tire hauler shall contact the Department and provide the name of the company, name of the person, and phone number of a waste tire generator, or end-use facility who does not provide the required information to the agricultural exempt waste tire hauler so that the Manifest Form can be completed properly.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42954, and 42961.5, *Public Resources Code*.

Section 18460.1.1. Waste Tire Manifest System Requirements for Common Carrier Exemption.

(a) As provided in Section 18459(b), the common carrier approved for exemption pursuant to Public Resource Code Section 42954 shall not transport 10 or more waste or used tires without having a copy of the Manifest Form in the vehicle while transporting the waste or used tires.

(b) The exempt common carrier shall leave one copy of the Manifest Form with the waste tire generator, or end-use facility after the form has been completed with the required information. The common carrier is required to have in their possession a completed Manifest Form while transporting 10 or more waste or used tires. The Manifest Form may be kept with the trailer, as defined in Section 630 of the Vehicle Code, if the Manifest Form is readily accessible to the driver, any representative of the Department, any officer of the California Highway Patrol, any peace officer, as defined in Sections 830.1 or 830.2 of the Penal Code, or any local public officer designated by the Department.

(1) If the final destination is a port terminal, the exempt common carrier shall leave the waste tire generator with a completed Manifest Form and confirming freight transport documentation, which includes, but is not limited to, bills of lading, sales receipts, and shipping invoices. For purposes of this Section, the waste tire generator shall be the person who originates the shipment of waste or used tires to the port terminal. The completed Manifest Form shall show the port terminal operator as the final destination.

(c) In lieu of subsection (b), the waste tire generator is authorized by the Department to complete the Manifest Form in advance, including the end-use facility destination information on behalf of the exempt common carrier. This transport process may commonly occur at ports. The waste tire generator shall retain the generator portion of the Manifest Form for their records, submit the CalRecycle copy to the Department within 90 days of the initial shipment, and give the end use facility portion of the manifest and the hauler portion of the manifest to the exempt common carrier prior to shipment of the tires to the end-use facility. The common carrier shall retain their portion of the completed Manifest Form for their records.

(1) The exempt common carrier will have the end-use facility and hauler portions of the Manifest Form in their possession until reaching the final destination.

(2) This process does not alleviate the exempt common carrier of their responsibility to

follow the manifesting requirements of this Chapter should the generator fail to follow the process outlined in this subsection.

(d) The waste tire generator shall not contract with the exempt common carrier to transport waste or used tires to an end-use facility not legally authorized to accept waste or used tires.

(e) The exempt common carrier shall not transport waste or used tires to an end-use facility not legally authorized to accept waste or used tires.

(f) Except as provided in subsection (c), the common carrier shall submit the completed original Manifest Form to the Department within ninety (90) days of the load shipment. The Manifest Form shall contain the signature of the common carrier representative.

(g) The common carrier shall contact the Department and provide the name of the company, name of the person, and phone number of a waste tire generator, or end-use facility that does not provide the required information to the exempt common carrier so that the Manifest Form can be completed properly.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42951, 42954, and 42961.5, Public Resources Code.

Section 18460.2. Waste Tire Manifest System Requirements for Registered Waste Tire Haulers.

(a) The registered waste tire hauler shall show the waste or used tire generator or end use facility the waste tire hauler registration for the vehicle being used to transport waste or used tires, if requested.

(b) The registered waste tire hauler shall complete a new Manifest Form for each pick-up or delivery of any waste or used tires in accordance with the directions on the form. The waste tire hauler shall not transport any waste or used tires without having a copy of the Manifest Form in the vehicle transporting the waste or used tires.

(c) A vehicle may contain waste or used tires from different waste or used tire generators. Waste or used tires from each generator shall be accompanied by their own Manifest Form from the point of origin.

(d) The waste tire hauler shall leave one copy of the Manifest Form with the waste or used tire generator, or end-use facility after the form or receipt has been completed.

(1) If the final destination is a port terminal, the registered waste tire hauler shall leave the waste tire generator with a completed Manifest Form and confirming freight transport documentation, which includes, but is not limited to, bills of lading, sales receipts, and shipping invoices. For purposes of this Section, the waste tire generator shall be the person who originates the shipment of waste or used tires to the port terminal. The completed Manifest Form shall show the port terminal operator as the final destination.

- (e) The waste tire hauler shall keep one copy of the completed Manifest Form.
- (f) The waste tire hauler shall not haul waste or used tires to an end-use facility not legally authorized to accept waste or used tires.
- (g) The waste tire hauler shall contact the Department and provide the name of the company, name of the person, and phone number of the waste tire generator, or end-use facility who does not provide the necessary information to the hauler so that the Manifest Form can be completed properly.
- (h) The waste tire hauler shall not transport the waste or used tires without a properly completed Manifest Form.
- (i) Those waste and used tire haulers exempt from registration pursuant to Public Resources Code Section 42954 shall be required to comply with the manifest requirements of subsections (b) through (h) if they haul 10 or more waste or used tires, but will not be allowed to participate in the electronic reporting as provided in subsection (j).
- (j) As provided in Section 18459(a)(1), the registered waste tire hauler may substitute their own functionally equivalent form, once approved by the Department, and substitute an electronic report for the Comprehensive Trip Log.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42951, 42954, 42956, and 42961.5, *Public Resources Code*.

Section 18460.2.1. Waste Tire Manifest System Requirements for Retreaders. [Repealed]

Section 18460.3. What if the Tire Dealer/Waste Tire Generator Does Not Properly Complete the Manifest Form? [Renumbered]

Section 18460.4. What are Legally Authorized Waste Tire Sites? [Repealed]

Section 18461. Manifest System Requirements for Waste Tire End-Use Facilities.

The Waste Tire Manifest System requires specific actions on the part of end-use facilities including, but not limited to, the following.

- (a) As provided in Section 18459.3(a), an end-use facility shall retain a copy of the Manifest Form provided by the registered hauler.

(1) If the end-use facility is a port terminal, the registered waste tire hauler or exempt common carrier shall leave the waste tire generator with a completed Manifest Form and confirming freight transport documentation, which includes, but is not limited to, bills of lading, sales receipts, and shipping invoices. For purposes of this Section, the waste tire generator shall be the person who originates the shipment of waste or used tires to the port terminal. The completed Manifest Form shall show the port terminal operator as the final destination.

(b) The end-use facility may accept the waste or used tires from waste tire hauler(s) who are not registered with the Department and/or have no manifest as provided below:

(1) If waste or used tires are received from a registered hauler that does not have a Manifest Form, the end-use facility shall complete the Unregistered Hauler & Comprehensive Trip Log Substitution Form (CalRecycle 204, New 8/05) within 48 hours of the tire delivery and submit the CalRecycle 204 form to the Department within 90 days.

(2) The end-use facility shall complete the CalRecycle 204 (New 8/05) and submit it to the Department within 30 days of the acceptance of 10 or more waste or used tires from a person who is not registered as a waste tire hauler unless that person has written authorization by the Solid Waste Enforcement Agency for purposes of an Amnesty Day Event or a One Time Exemption and is transporting no more than 20 waste or used tires to the end-use facility.

(3) If the person is hauling more than 20 waste or used tires under the written authorization of a Solid Waste Enforcement Agency for purposes of an Amnesty Day Event or a One Time Exemption, the end-use facility shall report this information on the CalRecycle 204 (New 8/05) and submit the form to the Department within 30 days of the acceptance of waste or used tires from that person.

(c) End-use facility operators shall make available for review by the waste tire hauler any Department issued permit, exemption from waste tire facility permitting requirements, or any local permit or license allowing the storage of waste or used tires on the site.

(d) If the end-use facility completes and submits a CalRecycle 204 (New 8/05) under the requirements of this Section, the end-use facility operator shall retain a copy of the completed CalRecycle 204 (New 8/05) at the place of business for a period of 3 years and the form shall be made available to the Department, or an authorized representative of the Department, upon request.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42950, 42951, 42953, 42961.5, and 42962, Public Resources Code.

Section 18461.1. My Site Accepts Waste Tires. What Shall I do as the Operator of a Destination Facility if a Waste Tire Hauler Who is Not Registered With the Board and/or Has No Manifest Delivers Waste Tires to My Site? [Renumbered]

Section 18461.2. How Can I Demonstrate That My Facility is Authorized to Accept Waste Tires? [Renumbered]

Section 18462.1. Can I Give Tires to a Person Wanting to Haul my Waste Tires but Who Doesn't Have a Registration or is Not Exempt From the Registration? [Renumbered]

Section 18462.2. Do I need to Know the Destination Site or Collection Facility for the Waste Tires? [Renumbered]

Section 18463. Civil Penalties.

Any waste tire generator, end-use facility, or waste tire hauler or any party or person who commits any of the following acts shall be liable for a civil penalty:

(a) Intentionally, or negligently violates any permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the Public Resources Code relating to the generation, transportation or disposal of used or waste tires.

(b) The aiding or abetting, or allowing of any violation, or noncompliance with any permit, rule, regulation, standard, or requirement pursuant to Chapter 19 of the Public Resource Code relating to the generation, transportation or disposal of used or waste tires.

(c) Any violation of, or noncompliance with any order issued by the Department or by a hearing officer or a court relating to the generation, transportation or disposal of used or waste tires.

(d) Any false statement, misrepresentation, or omission of a significant fact or other required information in the application for a waste tire hauler registration, Manifest Form, Unregistered Hauler & Comprehensive Trip Log Substitution Form, or in information regarding these matters subsequently reported to the Department.

(e) In addition to liability for a civil penalty, the Department may:

(1) File a claim against any registered waste tire hauler surety bond for activities resulting from the illegal disposal of tires or injury.

(2) Deny, suspend, or revoke a waste tire hauler registration.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Sections 42950, 42951, 42952, 42953, 42961.5, and 42962, *Public Resources Code*.

Section 18464. Amount of Civil Penalties and Administrative Penalty Schedule.

(a) Civil penalties may be imposed administratively in accordance with the following penalty tables:

(1) For used and waste tire haulers, tire generators, and end-use facilities, using Penalty Table I;

(A) Determine what violations have occurred.

(B) Determine the number of violations or offenses that have occurred.

(C) Add up the penalties to determine the applicable fine.

Penalty Table 1: For Tire Haulers, Tire Generators, and End-Use Facilities

Violation	Description of Violation	1st Offence	2nd Offence	3rd Offence
PRC 42951(b)	Any person who gives contracts or arranges with another person to transport waste or used tires and fails to utilized tire hauling holder a valid waste and used tire hauler registration from the board (unless the tire hauler is exempted from registration requirements as specified in PRC, Section 42954).	\$1,000- \$3,000	\$2,000- \$4,000	\$3,000- \$5,000
PRC 42952(b)	Falsely advertising or representing their-self as being in the business of a waste and used tire hauler without being registered as a waste or used hauler by the boards.	\$1,000- \$2,000	\$2,000- \$4,000	\$4,000- \$5,000
PRC 42953	Any person who gives, contracts, or arranges with another person to transport waste or used tires and fails to utilize a tire hauler holding a valid waste and used tire hauler registration from the board (unless the tire hauler is exempted from registration requirements as specified in PRC, Section 42954)	\$500- \$1,000	\$1,000- \$2,000	\$2,000- \$3,000
PRC 42956	Failure to carry waste or used tire hauler registration in vehicle; failure to permanently affix tire hauler decal to the lower right hand corner of the windshield.	\$100- \$500	\$1,000- \$3,000	\$3,000- \$5,000
PRC 42956(c)	Failure to present waste or used tire hauler registration upon the demand of an unauthorized representative of the board.	\$100- \$500	\$500- \$1,000	\$1,000- \$1,750
PRC 42961.5	Failure to submit Comprehensive Trip Log, Manifest Vitiations, or Electronic Reporting on a quarterly basis, or have missing information, incomplete information, and false informality.	\$100- \$500	\$500- \$1,000	\$1,500- \$2,500
14 CCR 18456.1(b)	Failure to maintain surety bond in full force and effect during all registration periods.	\$500- \$1,000	\$1,000- \$2,000	\$2,000- \$3,000
14 CCR 18456.3	Failure to notify board of changes in information provided on registration application form (CIWMB 60) as required by 14 CCR 18456.3	\$100- \$300	\$500- \$1,000	\$1,500- \$2,000

- (2) For unregistered used and waste tire haulers, using Penalty Table II;
- (A) Determine the number of violations or offenses.
- (B) Find the number of tires hauled for each load.
- (C) Determine whether any other violations listed in Table I have occurred and add that fine to the fine from Table II to determine the total fine.

Penalty Table 2: Violations of PRC, Section 42951(a)

Violation	10-20 Tires per load	21-40 Tires per load
Unregistered Hauler (1 st Offense)	\$100-\$500	\$500-\$750
Unregistered Hauler (2 nd Offense)	\$500-\$1,000	\$750-\$1,250
Unregistered Hauler (3 rd Offense)	\$1,000-\$1,750	\$1,250-\$2,000

(b) For administrative hearings held pursuant to Public Resources Code Sections 42960 and 42962, a person waives the right to a hearing when that person fails to submit to the Department a Notice of Defense pursuant to Government Code Section 11506 or CalRecycle Request for Hearing form within 15 days of service of the administrative complaint on that person.

Authority cited: Sections 40502, 42966 and 43020, Public Resources Code.

Reference: Sections 42960, and 42962, Public Resources Code.

Section 18465. Criteria to Impose a Civil Penalty.

In assessing the amount of civil penalty, factors to be considered shall include, but are not limited to, the following:

- (1) The nature, circumstances, extent, and gravity of the violation.
- (2) Evidence that the violation was willful or negligent.
- (3) The good or bad faith exhibited by the party.
- (4) History of violation of the same or similar nature.
- (5) The extent to which the party has cooperated with the Board in remediating the violation.
- (6) The extent that the party has mitigated or attempted to mitigate any damage or injury caused by his or her violation.
- (7) Evidence of any financial gain resulting from the violation.
- (8) Such other matters as justice may require.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Section 42962, *Public Resources Code*.

Section 18466. Procedure for Imposing Civil Penalties.

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code Section 11505(c).

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who are registered waste or used tire haulers, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the current year's waste tire hauler registration application (form CalRecycle 60) on file with the Department. Any address provided on the current year's waste tire hauler registration application may be used for service of process against a waste or used tire hauler, even if that hauler's actions occur while in the role of a waste tire generator or waste tire end-use facility. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who are unregistered used or waste tire haulers, generators and end use facilities that do not provide a current year's waste tire hauler registration application to the Department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at Section 11505(c) of the Government Code applies.

(c) Civil penalties may be imposed pursuant to the Public Resources Code Section 42962 in the discretion of the trier of fact in the civil proceeding.

Authority cited: Sections 40502, 42966 and 43020, *Public Resources Code*.

Reference: Section 11500, *Government Code*; and Section 42962, *Public Resources Code*.

Article 9. Financial Assurance Requirements for Closure of A Major Waste Tire Facility

Section 18470. Scope and Applicability.

(a) This Article requires operators of major waste tire facilities to demonstrate adequate financial ability to conduct closure activities.

(b) Operators of all major waste tire facilities, except state and federal operators, shall comply with the requirements of this Article upon application for issuance of a major waste tire facilities permit pursuant to Chapter 6, Article 1, Section 18420.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18471. Definitions.

(a) When used in this Article, the following terms shall have the meanings given below:

(1) "Current Closure Cost Estimate" means the most recent estimate prepared in accordance with Chapter 6, Article 6, Section 18442.

(2) "Depository Trust Fund" means the fund established in conjunction with a surety bond or letter of credit and that meets the requirements of Section 18474 of this Article.

(3) "Enterprise Fund" means a fund established to account for the financing of self-supporting activities of a government unit that renders services on a user-fee basis.

(4) "Government Securities" means financial obligations issued by a federal, state or local government, including general obligation bonds, revenue bonds, and certificates of participation.

(5) "Letter of Credit" means a contract by which the issuing institution promises to extend credit on behalf of an operator to the Board or its designee, on presentation of the mechanism in accordance with its terms.

(6) "Provider of financial assurance" means an entity, other than an operator, that provides financial assurance to an operator of a major waste tire facility, including but not limited to a trustee, an institution issuing a letter of credit, or a surety company.

(7) "Surety Bond" means a contract by which a surety company promises that, if the operator fails to perform required closure activities, the surety company will be liable for the operator's responsibilities as specified by the bond.

(8) "Trust fund" means a contract by which the operator transfers assets to a trustee to hold, on behalf of the Board or its designee, to pay closure costs.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18472. Closure Cost Estimate Adjustments.

(a) An operator shall increase the closure cost estimate when changes to the closure plan increase the cost of closure.

(b) An operator may reduce the closure cost estimate when changes to the closure plan decrease the cost of closure. The request for reduction shall be submitted with an

application for renewal or revision of the permit for approval by the Board or its designee.

(c) Each year, an operator shall submit to the Board or its designee, a report calculating the increase in the closure cost estimate due to the inflation factor for the previous calendar year. The inflation factor is derived from the annual Implicit Price Deflator for Gross National Product as published annually by the U.S. Department of Commerce, in its Survey of Current Business. The inflation factor is the result of dividing the latest annual published deflator by the deflator for the previous year. The operator shall adjust the closure cost estimate for inflation within 60 days of the anniversary date of the establishment of the financial mechanism for closure costs. The operator shall increase the monetary amount of the financial mechanism based on this inflation factor.

(d) The mechanism(s) used to demonstrate financial responsibility shall be updated, no more than 60 days after a change in the amount of the current closure cost estimate covered by the mechanism(s).

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18473. Acceptable Mechanisms and Combination of Mechanisms.

(a) Subject to the limitation of subsection (c) of this Section, an operator shall use any one or any combination of the mechanisms specified which are defined in the following Sections of this Article:

(1) Section 18474, Trust Fund

(2) Section 18475, Surety Bond

(3) Section 18476, Letter of Credit

(4) Section 18477, Government Securities

(5) Section 18478, Enterprise Fund

(6) Section 18478.5 State Approved Mechanism

(b) If a combination of mechanisms are used, the operator shall designate one mechanism as "primary" and all others as "excess" coverage.

(c) If an operator uses a trust fund in combination with a surety bond or letter of credit, the trust fund may be used as the depository trust fund for the other mechanisms.

(d) An operator shall not combine a performance bond with any other mechanism(s).

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18474. Trust Fund.

(a) An operator may establish a trust fund to meet the requirements of this Article. The trust agreement shall be submitted to the Board or its designee as an originally signed duplicate. The trustee shall be an entity which has the authority to act as a trustee, and whose trust operations are regulated and examined by a federal or state agency.

(b) The trust agreement shall be worded as specified by using form CIWMB 140 "Trust Agreement" (12/91) which is incorporated herein by reference; and also shall contain the original signature of the grantor and the trustee. (See Appendix A.)

(c) The initial deposit to the trust fund shall be at least equal to the current closure cost estimate.

(d) If the value of the fund is at any time less than the amount of the current estimate, the operator shall either deposit an amount into the fund so that the value of the fund at least equals the amount of the current closure cost estimate, or obtain other financial assurance, as specified in this Article, to cover the difference.

(e) If at any time, the value of the trust fund plus the amount of coverage demonstrated by other mechanisms is greater than the closure cost estimate based on the maximum quantity of waste tires permitted for storage, the operator may request in writing that the Board or its designee authorize the release of the excess funds. After receiving such a request, the Board or its designee shall review the request and, if any excess funds are verified, shall instruct the trustee to release the funds.

(f) After the Board or its designee has approved final closure, an operator or any other person authorized by the Board to perform closure, may request reimbursement for closure expenditures by submitting to the Board for review, documentation of those expenditures, including but not limited to tire receipts. After receiving the documentation for closure activities, the Board or its designee shall determine whether the closure expenditures are in accordance with the closure plan or otherwise justified. After the Board or its designee has approved final closure, the Board or its designee shall instruct the trustee, in writing, to reimburse the fund to the grantor.

(g) The Board or its designee shall agree to termination of the trust when:

(1) An operator substitutes alternate financial assurance as specified in Section 18479 of this Article; or

(2) The Board or its designee releases the operator from the requirements of this Article in accordance with Section 18482.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18475. Surety Bond.

(a) An operator may establish a surety bond to meet the requirements of this Article. The surety company issuing the bond shall, at a minimum, be among those listed as acceptable sureties on federal bonds in the most recent issuance of Circular 570 of the U.S. Department of the Treasury.

(b) The surety bond shall be worded as specified by using one of the following forms which are incorporated by reference;

(1) Form CIWMB 141 (1/92) " Performance Bond," which is incorporated herein by reference, for a surety bond guaranteeing performance (See Appendix A.); or

(2) Form CIWMB 142 (1/92) "Financial Guarantee Bond," which is incorporated herein by reference, for a surety bond guaranteeing payment. (See Appendix A.)

(c) An operator who uses a surety bond to satisfy the requirements of this Article, or the surety who issues the bond, shall also establish a depository trust fund which meets the requirements of Section 18474 of this Article if:

(1) An operator fails to demonstrate alternate financial assurance within 60 days after receiving notice of cancellation of the mechanism;

(2) An operator fails to perform closure in accordance with the applicable approved closure plan and permit requirements when required to do so by the Board or its designee; or

(3) A surety fails to perform such activities on behalf of the operator. This applies to the performance bond only.

(d) Under the terms of the bond, all payments made from the bond shall be deposited by the surety directly into the depository trust fund.

(e) A surety company shall become liable under the terms of the bond, if the Board or its designee determines that the operator has failed to perform closure as guaranteed by the bond.

(f) Under the terms of the bond, a surety may cancel the bond by sending notice of cancellation by certified mail to the operator and the Board or its designee. Cancellation shall not take effect until 120 days after the date of receipt of the notice of cancellation by both the operator and the Board or its designee, as evidenced by the return receipts.

(g) An operator may cancel a bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization from the Board or its designee to terminate the bond.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18476. Letter of Credit.

(a) An operator may establish a letter of credit to meet the requirements of this Section. The issuing institution shall be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(b) The letter of credit shall be worded as specified by using form CIWMB 143 "Irrevocable Letter of Credit for closure Costs" (12/91) which is incorporated herein by reference. (See Appendix A.)

(c) The letter of credit shall be accompanied by a letter from the operator identifying the number, issuing institution, and date of issuance of the letter of credit; and the name, address, facility number, and amount of funds assured by the letter of credit for closure for each major waste tire facility.

(d) An operator who uses a letter of credit to satisfy the requirements of this Article or the issuing institution shall also establish a depository trust fund which meets the requirements of Section 18474 of this Article if:

(1) An operator fails to demonstrate alternate financial assurance within 60 days after receiving notice of cancellation of the mechanism; or

(2) An operator fails to perform closure in accordance with the applicable approved closure plan and permit requirements when required to do so by the Board or its designee.

(e) Under the terms of the letter of credit, all payments made from the letter of credit shall be deposited by the financial institution issuing the letter of credit, directly into the depository trust fund.

(f) The letter of credit shall:

(1) Be irrevocable and issued for a period of at least one year; and

(2) Provide that the expiration date will be automatically extended for a period of at least one year unless, at least 120 days before the current expiration date, the issuing institution notifies both the operator and the Board or its designee by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days shall begin on the date when both the operator and the Board or its designee have received the notice, as evidenced by the return receipts.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18477. Government Securities.

(a) Government securities may be used to cover closure costs only for major waste tire

facilities operated by government agencies.

(b) The terms of issuance of government securities shall specify that proceeds from the sale of the securities shall be deposited into a financial assurance mechanism that meets the requirements of Section 18478(d) of this Article.

(c) The securities shall have been issued and the proceeds deposited into the financial assurance mechanism that provides equivalent protection to a trust fund by meeting the following requirements:

(1) Proceeds from the sale of securities shall be used exclusively to pay for closure activities;

(2) The financial operations of the provider of the financial assurance are regulated by a federal or state agency, or the provider is otherwise certain to maintain and disburse the assured funds properly;

(3) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(4) The mechanism meets other requirements that the Board determines are necessary to ensure that the assured funds shall be available in a timely manner.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18478. Enterprise Fund.

(a) The enterprise fund may be used to cover closure costs only for major waste tire facilities operated by government agencies.

(b) The enterprise fund shall dedicate its revenue exclusively or with exclusive first priority to financing closure activities.

(c) The enterprise fund shall be established and the documents shall be worded as specified by using form CIWMB 144 "Enterprise Fund for Financial Assurances" (3/92), which is incorporated herein by reference. (See Appendix A.) The wording, however, may be modified to accommodate special circumstances on a case-by-case basis, as approved by the Board or its designee.

(d) Revenue generated by an enterprise fund shall be deposited into a financial assurance mechanism which:

(1) Provides equivalent protection to a trust fund as described in Section 18474 of this Article;

(2) Shall be funded within five years as described in Section 18474 of this Article;

(3) Is used exclusively to finance closure activities and shall remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(4) Authorizes the Board or its designee to direct the provider of financial assurance to pay closure costs if the Board or its designee determines that the operator has failed to perform closure activities covered by the mechanism;

(5) Is maintained by a provider whose financial operations are regulated by a federal or state agency, or the provider is otherwise certain to maintain and disburse the assured funds properly;

(6) Is maintained by a provider who has authority to invest revenue deposited into the mechanism. The provider shall exercise investment discretion similar to a trustee; and

(7) Meets other requirements that the Board determines are necessary to ensure that the assured amount of funds shall be available for closure activities in a timely manner.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18478.5 State Approved Mechanism.

(a) An operator may satisfy the requirements of this Chapter by obtaining any other mechanism that meets the following criteria, and that is approved by the Board.

(1) The financial assurance mechanism(s) must ensure that the amount of funds assured is sufficient to cover the costs assured when needed;

(2) The financial assurance mechanism(s) must ensure that the funds will be available in a timely fashion when needed;

(3) The financial assurance mechanism(s) must be obtained by the operator before the first waste is received at a new facility and before any other financial mechanism is cancelled at existing facilities. The financial mechanism must be maintained until the operator is released from the financial assurance requirements under this Chapter.

(4) The financial assurance mechanism(s) must be legally valid, binding, and enforceable under the California and Federal law.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 40502 and 42821, Public Resources Code.*

Section 18479. Substitution of Mechanisms by Operator.

(a) An operator may substitute any alternate financial assurance mechanism(s) acceptable to the Board or its designee as specified in this Article, provided that at all times the operator maintains an effective mechanism or combination of mechanisms that satisfies the requirements of Section 18473 of this Article, and informs the Board of

such substitution.

(b) After obtaining alternate financial assurance, an operator may request that the Board or its designee terminate or authorize the termination of a financial assurance mechanism. The operator shall submit such a request in writing with evidence of alternate financial assurance.

(c) Following written approval by the Board or its designee, the operator may cancel a financial assurance mechanism by giving notice to the provider of financial assurance.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18480. Bankruptcy or Other Incapacity of an Operator or Provider of Financial Assurance.

(a) Within 10 days after commencement of a voluntary or involuntary proceeding under the Bankruptcy Code, Title 11, U.S.C. Sections 101-1330 in which:

(1) The operator is named as debtor. The operator shall notify the Board or its designee by certified mail of such commencement.

(2) A provider of financial assurance is named as debtor, such provider shall notify the operator and the Board or its designee by certified mail of such commencement.

(b) An operator shall be deemed to be without the financial assurances in the event of bankruptcy of its provider, or in the event of a suspension or revocation of the authority of the provider to issue such coverage. If such an event occurs, the operator shall demonstrate, to the Board or its designee, alternate coverage as specified in this Article within 60 days after receiving notice of the event. If the operator fails to obtain alternate coverage within 60 days, the operator shall notify the Board or its designee within 10 days of such failure.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18481. Recordkeeping and Reporting Requirements.

(a) An operator shall maintain evidence of all financial assurance mechanisms until the operator is released from the requirements of this Article, as specified in Section 18482. This evidence shall be maintained at each major waste tire facility, whenever possible, or at an alternate, designated location approved by the Board or its designee and which is accessible to the operator, and available for the Board or its designee to review.

(b) An operator shall maintain the following types of evidence of financial assurance:

(1) Trust Fund. An operator using a trust fund shall maintain a copy of the trust agreement and statements verifying the current balance of the fund.

(2) Surety Bond. An operator using a surety bond shall maintain a copy of the bond and any amendments to the bond.

(3) Letter of Credit. An operator using a letter of credit shall maintain a copy of the letter of credit and any amendments to the letter of credit.

(4) Government Securities. An operator using government securities shall maintain a copy of the following:

(A) All official resolutions, forms, letters or other pertinent documents generated to issue the securities;

(B) The terms of issuance of the securities; and

(C) With respect to the financial assurance mechanism into which proceeds from the issuance are deposited, the information listed in subsection (5)(C)1., 2., and 3. of this Section.

(5) Enterprise Fund. An operator using an enterprise fund shall maintain a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to establish the fund;

(B) The annual financial statements of the fund; and

(C) With respect to the financial assurance mechanism into which enterprise fund revenue is deposited:

The mechanism, which shall identify the major waste tire facility(ies) and the current closure cost estimates covered by the mechanism;

A letter from an authorized officer of the institution maintaining the mechanism, identifying the amount of coverage provided by the mechanism as of the date of its establishment and each anniversary date of establishment; and

Documentation that the mechanism meets the requirements of Section 18478(d) of this Article.

(c) An operator shall submit current evidence of financial responsibility, as described in subsection (b) of this Section, to the Board or its designee:

(1) Whenever a financial assurance mechanism is established or amended.

(A) In the case of a trust fund, letter of credit or surety bond, such documentation shall include the original mechanisms or amendments;

(B) In the case of government securities such documentation shall include the information as specified in subsection (b)(4)(C) of this Section.

(C) In the case of the enterprise fund such documentation shall include the information as specified in subsection (b)(5)(C) of this Section.

(2) When a closure plan is required to be submitted as required in Article 6, or when the amendment of a cost estimate is required to be submitted as required in Articles 6 or 9; or

(3) If an operator fails to increase the balance of a trust fund or an enterprise fund in accordance with Section 18474(c) of this Article.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18482. Release from Financial Assurance Requirements for Closure Costs.

(a) After approving the closure of a major waste tire facility as specified in Article 6 of Chapter 6, the Board or its designee shall notify the operator in writing, that the operator is no longer required by this Article to maintain financial assurance for closure of a particular facility; or

(b) When operational control of a major waste tire facility is transferred, the existing operator shall remain subject to the requirements of this Article until the new operator provides acceptable financial assurances to the Board or its designee. The Board or its designee shall notify the previous operator in writing that they are no longer required to maintain financial assurance for closure of that particular facility.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Article 10. Financial Responsibility for Operating Liability Claims of Major Waste Tire Facilities

Section 18485. Scope and Applicability.

(a) This Article requires operators of major waste tire facilities to demonstrate adequate financial ability to compensate third parties for bodily injury and property damage caused by facility operation.

(b) Operators of all major waste tire facilities, except state and federal operators, shall comply with the requirements of this Article upon application for issuance of a major waste tire facilities permit pursuant to Chapter 6, Article 1, Section 18420.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18486. Definitions.

(a) When used in this Article, the following terms shall have the meanings described in

Chapter 5, Article 3.5, Section 18281:

- (1) "Assets";
- (2) "Current assets";
- (3) "Current liabilities"
- (4) "Financial reporting year";
- (5) "Liabilities";
- (6) "Net working capital"
- (7) "Net worth";
- (8) "Parent corporation"; and
- (9) "Tangible net worth".

(b) When used in this Article, the following terms shall have the meanings given below:

(1) "Accidental occurrence" means an event, including pollution exposure, which occurs during the operation of a major waste tire facility prior to closure, that results in bodily injury and/or property damage, and includes continuous or repeated exposure to conditions, neither expected nor intended from the standpoint of the facility operator.

(2) "Admitted carrier" means an insurance company entitled to transact the business of insurance in this state, having complied with the laws imposing conditions precedent to transactions of such business.

(3) "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment."

(4) "Bodily injury" means any injury to the body, sickness or disease sustained by a person, including death resulting from any of these at any time. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury." "Bodily injury" excludes:

(A) "Bodily injury" expected or intended from the standpoint of the operator. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

(B) "Bodily injury" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(C) Any obligation of the operator under a workers compensation, disability benefits or unemployment compensation law or any similar law.

(D) "Bodily injury" to:

An employee of the operator arising out of and in the course of employment by the operator; or

The spouse, child, parent, brother or sister of that employee as a consequence of subsection (b)(4)(D)1 above.

This exclusion applies:

Whether the operator may be liable as an employer or in any other capacity; and

To any obligation to share damages with or repay someone else who must pay damages because of the injury.

(E) "Bodily injury" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading or unloading. This exclusion does not apply to:

Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

"Bodily injury" arising out of the operation of any of the equipment listed in paragraph (F)2. or (F)3. of the definition of "mobile equipment", found in subsection 12 below.

(5) "Corporate guarantee" means a contract meeting the requirements of Section 18494 of this Article through which a guarantor promises that, if an operator fails to pay a claim by a third party for bodily injury and/or property damage caused by an accidental occurrence, the guarantor shall pay the claim on behalf of the operator.

(6) "Excess coverage" means assurance for third party bodily injury and property damage costs that are above a specified level (i.e., above the primary coverage level or a limit of lower excess coverage) but up to a specified limit.

(7) "Financial means test" means the financial assurance mechanism specified in Section 18493 of this Article by which an operator demonstrates his or her ability to pay third party claims for bodily injury and property damage caused by accidental occurrences by satisfying the prescribed set of financial criteria.

(8) "Government securities" means financial obligations meeting the requirements of Section 18490 of this Article that are issued by a federal, state, or local government, including but not limited to, general obligation bonds, revenue bonds, and certificates of participation.

(9) "Guarantor" means a parent corporation, or a corporation with a substantial business relationship to the operator who guarantees payment of a present or future obligation(s) of an operator.

(10) "Insurance" means a contract meeting the requirements of Section 18491 of this Article by which an insurer promises to pay a claim by a third party for bodily injury and property damage caused by an accidental occurrence.

(11) "Legal defense costs" means expenses that an operator or a provider of financial

assurance incurs in defending claims brought:

(A) By or on behalf of a third party for bodily injury and/or property damage caused by an accidental occurrence; or

(B) By any person to enforce the terms of a financial assurance mechanism.

(12) "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

(A) Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

(B) Vehicles maintained for use solely on or next to premises the operator owns or rents;

(C) Vehicles that travel on crawler treads;

(D) Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted:

Power cranes, shovels, loaders, diggers or drills; or

Road construction or resurfacing equipment such as graders, scrapers or rollers;

(E) Vehicles not described in (A), (B), (C) or (D) above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

Cherry pickers and similar devices used to raise or lower workers;

(F) Vehicles not described in (A), (B), (C) or (D) above maintained primarily for purposes other than the transportation of persons or cargo. However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos:"

Equipment designed primarily for:

Snow removal;

Road maintenance, but not construction or resurfacing;

Street cleaning;

Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

(13) "Primary coverage" means the first priority coverage for third party bodily injury and property damage costs up to a specified limit when used in combination with other coverage.

(14) "Property damage" means physical injury to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that is not physically injured. "Property damage" excludes:

(A) "Property damage" expected or intended from the standpoint of the operator.

(B) "Property damage" for which the operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the operator would have in the absence of the contract or agreement.

(C) "Property damages" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any operator. Use includes operation and loading and unloading. This exclusion does not apply to:

Parking an "auto" on, or on the ways next to, premises the operator owns or rents, provided the "auto" is not owned by or rented or loaned to the operator;

"Property damage" arising out of the operation of any of the equipment listed in paragraph (F)2. or (F)3. of the definition of "mobile equipment", found in subsection 12 above.:

(D) "Property damage" to

Property the operator owns, rents, or occupies;

Premises the operator sells, gives away or abandons, if the "property damage" arises out of any part of those premises;

Property loaned to the operator;

Personal property in the operator's care, custody or control;

That particular part of real property on which the operator or any contractors or subcontractors working directly or indirectly on the operator's behalf are performing operations, if the "property damage" arises out of those operations; or

That particular part of any property that must be restored, repaired or replaced because the operator's work was incorrectly performed on it.

(15) "Provider of financial assurance" means an entity, other than the operator, that provides financial assurance to the operator of a major waste tire facility, including a trustee, an insurer, or a guarantor.

(16) "Substantial business relationship" means a business relationship that arises from a pattern of recent or ongoing business transactions.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18487. Amount of Required Coverage.

(a) An operator of one or more major waste tire facilities shall demonstrate financial responsibility for compensating third parties for bodily injury and property damage caused by accidental occurrences, including exposures to pollution.

(b) The required amounts of coverage shall be:

(1) \$500,000 per occurrence with a \$500,000 annual aggregate for each facility permitted for 5,000 to 200,000 tires or tire equivalents; or

(2) \$1,000,000 per occurrence with a \$1,000,000 annual aggregate for each facility permitted for 200,001 tires or more or corresponding tire equivalents.

(c) The required amounts of coverage shall be exclusive of legal defense costs, deductibles and self-insured retentions.

(d) The required amounts of coverage shall apply exclusively to an operator's facility or facilities located in the State of California.

(e) An operator may use one or more mechanisms to provide proof of financial assurance.

(f) If a trust fund or government securities is depleted to compensate third parties for bodily injuries and/or property damages caused by accidental occurrences, the operator shall, within one year of the depletion, demonstrate financial responsibility for the full amount of coverage required by Section (a) by replenishing the depleted mechanism(s) and/or acquiring additional financial assurance mechanism(s).

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18488. Acceptable Mechanisms and Combinations of Mechanisms.

(a) Subject to the limitations of subsections (c) and (d) of this Section, an operator shall use any one, or any combination of the mechanisms which are defined in the following Sections:

(1) Section 18489, Trust Fund

(2) Section 18490, Government Securities

(3) Section 18491, Insurance

(4) Section 18492, Self-Insurance and Risk Management

(5) Section 18493, Financial Means Test

(6) Section 18494, Corporate Guarantee

(7) Section 18494.5, State Approved Mechanism

(b) If a combination of mechanisms are chosen, the operator shall designate one mechanism as "primary" and all others as "excess" coverage.

(c) The government securities and self-insurance and risk management mechanisms are acceptable only for major waste tire facilities operated by government agencies.

(d) The financial means test and corporate guarantee mechanisms are acceptable only for major waste tire facilities operated by private firms.

(1) A private operator may combine a financial means test with a corporate guarantee only if, for the purpose of meeting the requirements of the financial means test, the financial statements of the operator are not consolidated with the financial statements of the guarantor.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18489. Trust Fund.

(a) The trust fund shall have a trustee that is authorized to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(b) The trust agreement shall be established by using form CIWMB 145 "Trust Agreement" (12/91) which is incorporated herein by reference; and also shall contain original signature of grantor and trustee. (See Appendix A.)

(c) If, at any time, the value of the trust fund is greater than the required amount of coverage minus the amount of coverage demonstrated by another mechanism, the operator may request in writing that the Board or its designee authorize the release of the excess funds. The Board or its designee shall review the request, and if any excess funds are verified, the Board or its designee shall instruct the trustee to release the funds.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18490. Government Securities.

(a) The terms of issuance of government securities shall specify that proceeds from the sale of the securities shall be deposited into a financial assurance mechanism that meets the requirements of Section 18490(b) below.

(b) The securities shall have been issued and the proceeds already deposited into the financial assurance mechanism that provides equivalent protection to a trust fund by meeting the following requirements:

(1) Proceeds from the sale of securities shall be used exclusively to pay claims by third parties for bodily injury and property damage caused by accidental occurrences and shall remain inviolate against all other claims, including any claims by the operator, the operator's governing body, and the creditors of the operator and its governing body;

(2) The financial operations of the provider of the financial assurance are regulated by a federal or state agency, or the provider is otherwise certain to maintain and disburse the assured funds properly;

(3) If the provider of financial assurance has authority to invest revenue deposited into the mechanism, the provider shall exercise investment discretion similar to a trustee; and

(4) The mechanism meets other requirements that the Board or its designee determines are necessary to ensure that the assured funds shall be available in a timely manner.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18491. Insurance.

(a) The issuer of the insurance policy shall be an insurer that, at a minimum, is licensed by the California Department of Insurance to transact the business of insurance in the State of California as an admitted carrier.

(b) If coverage is not available as specified in (a) above, the operator may seek coverage by an insurer which, at a minimum, shall be eligible to provide insurance as an excess or surplus lines insurer in California.

(c) If coverage is obtained as described in Section (b) of this Section, the insurance shall be transacted by and through a surplus line broker currently licensed under the regulations of the California Department of Insurance and upon terms and conditions prescribed in the California Insurance Code (CIC), Division 1, Part 2, Chapter 6.

(d) The Board or its designee may object to the use of any insurer at anytime, whether before or after placement of coverage based on information obtained from, but not limited to, the Surplus Line Association of California, Best's Insurance Reports, and/or the Non-Admitted Insurers Quarterly List.

(e) Each insurance policy shall be either:

(1) Evidenced by a "Certificate of Liability Insurance" established by using form CIWMB 146 "Certificate of Liability Insurance" (12/91), which is incorporated herein by reference (See Appendix A.); or

(2) Amended and evidenced by a "Liability Insurance Endorsement" established by using form CIWMB 147 "Liability Insurance Endorsement" (12/91), which is incorporated herein by reference. (See Appendix A.)

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18492. Self-Insurance and Risk Management.

(a) To use the self-insurance and risk management mechanism an operator shall:

(1) Be a public entity;

(2) Be self-insured;

(3) Employ a risk manager;

(4) Have an active safety and loss prevention program that seeks to minimize the frequency and magnitude of third party damages caused by accidental occurrences and other self insured losses; and

(5) Have procedures for and a recent history of timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self-insured losses; and

(6) Satisfy any other reasonable conditions including but not limited to the submittal of audited financial statements that the Board or its designee determines are needed to ensure that the assured amount of funds shall be available in a timely manner.

(b) This coverage shall be demonstrated by using form CIWMB 148 (12/91), "Certificate of Self-Insurance and Risk Management", which is incorporated herein by reference. (See Appendix A.)

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18493. Financial Means Test.

(a) To pass the financial means test, an operator or a guarantor shall be a private entity and shall meet the criteria of subsection (c) or (d) based on independently audited year-end financial statements for the latest completed fiscal year.

(b) The phrase "amount of liability coverage to be demonstrated by the test" as used in

subsections (c) and (d) refers to the amount of liability coverage required by Section 18487 of this Article.

(c) The operator or guarantor shall have:

(1) Net working capital and tangible net worth each at least six times the amount of liability coverage to be demonstrated by the test; and

(2) Tangible net worth of at least \$10 million; and

(3) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(d) The operator or guarantor shall have:

(1) A current rating for its most recent bond issuance of AAA, AA, A, or BBB issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

(2) Tangible net worth of at least six times the amount of liability coverage to be demonstrated by the test; and

(3) Tangible net worth of at least \$10 million; and

(4) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the amount of liability coverage to be demonstrated by the test.

(e) Within 90 days after the close of each financial reporting year, the operator or the guarantor shall submit the following items to the Board or its designee and, in the case of a guarantor, to the operator;

(1) A letter on the operator's or guarantor's official letterhead stationary that is worded and completed as specified in form CIWMB 149 "Instructions for the Letter from the Chief Financial Officer Financial Means Test for Liability" (12/91), which is incorporated herein by reference and which contains an original signature of the operator's or guarantor's chief financial officer. (See Appendix A.) An operator or guarantor shall use form CIWMB 149 (12/91) to demonstrate or guarantee financial responsibility for liability coverage only. If the operator or guarantor is using a similar financial means test to demonstrate liability coverage for facilities in California or other states, such as but not limited to, hazardous waste treatment, storage, or disposal facilities, or solid waste landfills, or other waste tire facilities, the operator shall list all facilities covered by the financial means test, whether in California or not.

(2) A copy of an independent certified public accountant's report on examination of the operator's or guarantor's financial statements for the latest completed fiscal year, with a copy of the operator's or guarantor's financial statements for the latest completed fiscal year.

(3) A letter from an independent certified public accountant stating that:

(A) He or she has compared the data in the letter in subsection (e)(1), from the chief financial officer specified as having been derived from the financial statements for the latest completed fiscal year of the operator or the guarantor, with the amounts in the financial statements; and

(B) Based on the comparison, no matters came to his or her attention that caused him or her to believe that the specified data should be adjusted.

(4) If the operator or the guarantor is required to make such a filing, a copy of the operator's or guarantor's most recent form 10-K filed with the U.S. Securities and Exchange Commission.

(f) The Board or its designee may require updated financial statements at any time from the operator or guarantor. If the Board or its designee finds that the operator no longer meets the financial means test requirements of subsections (c) or (d) based on such reports or other information, including but not limited to, credit reports and reports from other state agencies, the operator shall obtain alternate coverage within 60 days after receiving the notification of such a finding.

(g) If an operator using the financial means test fails to meet the requirements of the financial means test under subsections (c) or (d), the operator shall obtain alternate coverage within 60 days after the determination of such failure.

(h) If the operator fails to obtain alternate coverage within the times specified in subsections (f) or (g), the operator shall notify the Board or its designee by certified mail within 10 days of such failure.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18494. Corporate Guarantee.

(a) The guarantor shall be:

(1) A parent corporation of the operator; or

(2) A firm whose parent corporation is also the parent corporation of the operator; or

(3) A firm engaged in a substantial business relationship with the operator and issuing the corporate guarantee as an act incident to that business relationship.

(b) The guarantor shall meet the requirements of the financial means test under Section 18493(c) or (d) of this Article based on the guarantor's audited year-end financial statements.

(c) The corporate guarantee shall be worded and completed as specified by form CIWMB 150 "Corporate Guarantee" (12/91), which is incorporated herein by reference.

(See Appendix A.)

(d) The terms of the corporate guarantee shall specify that if the operator fails to satisfy a judgment or an award for bodily injury and property damage to third parties caused by accidental occurrences, or fails to pay an amount agreed in settlement of a claim arising from or alleged to arise from such injury and damage, the guarantor shall satisfy such judgment, award, or settlement agreement up to the limits of the corporate guarantee.

(e) If the guarantor fails to meet the requirements of the financial means test under Section 18493(c) or (d) of this Article or wishes to terminate the corporate guarantee, the guarantor shall send notice of such failure or termination by certified mail to the operator and the Board or its designee within 90 days after the end of that financial reporting year. The corporate guarantee shall terminate no less than 60 days after the date that the operator and the Board or its designee have received the notice of such failure or termination, as evidenced by the return receipts. The guarantor shall establish alternate coverage as specified in Section 18488 of this Article on behalf of the operator within 60 days after such notice, unless the operator has done so.

(f) The Board or its designee may require updated financial statements at any time from a guarantor. If the Board or its designee finds, on the basis of such reports or information from other sources, including but not limited to, credit reports and reports from other state agencies, that the guarantor no longer meets the financial means test requirements of Section 493(c) or (d) of this Article, or any requirements of Section 18494 of this Article, the Board or its designee shall notify the guarantor and operator of such finding by certified mail. The guarantor shall establish alternate coverage as specified in Section 18488 of this Article on behalf of the operator within 60 days after such notice, unless the operator has done so.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18494.5. State Approved Mechanism.

(a) An operator may satisfy the requirements of this Chapter by obtaining any other mechanism that meets the following criteria, and that is approved by the Board.

(1) The financial assurance mechanism(s) must ensure that the amount of funds assured is sufficient to cover the costs assured when needed;

(2) The financial assurance mechanism(s) must ensure that funds will be available in a timely fashion when needed;

(3) The financial assurance mechanism(s) must be obtained by the operator before the first waste is received at a new facility and before any other financial mechanism is cancelled at existing facilities. The financial mechanism must be maintained until the operator is released from the financial assurance requirements under this Chapter.

(4) The financial assurance mechanism(s) must be legally valid, binding, and

enforceable under California and Federal law.

Authority cited: *Sections 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18495. Substitution of Mechanisms by Operator.

(a) An operator may substitute any alternate financial assurance mechanism(s) as described in Sections 18489 through 18494 of this Article, provided that at all times the operator maintains an effective mechanism or a combination of effective mechanisms, that satisfies the requirements of Section 18488 of this Article, and informs the Board or its designee of such substitution.

(b) In the event an operator obtains alternate financial assurance, it may request that the Board or its designee terminate or authorize the termination of the previous financial assurance mechanism. The operator shall submit such a request in writing with evidence of alternate financial assurance.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18496. Cancellation or Nonrenewal by a Provider of Financial Assurance.

(a) Except as otherwise provided in Section 18497 of this Article, a provider of financial assurance may cancel or not renew a financial assurance mechanism by sending a notice of termination by certified mail to the operator and the Board or its designee.

(b) Termination of a corporate guarantee shall occur no less than 60 days after the date on which the operator and the Board or its designee have received the notice of termination, as evidenced by the return receipts.

(c) Cancellation or nonrenewal of insurance or self-insurance and risk management coverage shall occur no less than 60 days after the date on which the operator and the Board or its designee have received the notice of termination, as evidenced by the return receipts; except in the case of non-payment of insurance premiums, in which case cancellation shall occur no less than 10 days after the date on which the operator and the Board or its designee have received the notice of termination.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18497. Bankruptcy or Other Incapacity of Operator or Provider of Financial Assurance.

(a) Within 10 days after commencement of a voluntary or involuntary proceeding under the Bankruptcy Code, Title 11 U.S.C. Sections 101-1330 in which:

(1) The operator is named as debtor, the operator shall notify the Board or its designee by certified mail of such commencement.

(2) A provider of financial assurance is named as debtor, such provider shall notify the operator and the Board or its designee by certified mail of such commencement.

(b) An operator shall be deemed to be without the required financial assurance in the event of bankruptcy of its provider of financial assurance, or in the event of a suspension or revocation of the authority of the provider of financial assurance to issue a mechanism. If such an event occurs, the operator shall demonstrate alternate financial assurance as specified in this Article within 60 days after receiving notice of the event. If the operator fails to obtain alternate financial assurance within 60 days, the operator shall notify the Board or its designee within 10 days of such failure.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18498. Recordkeeping and Reporting.

(a) An operator shall maintain evidence of all financial assurance mechanisms until the operator is released from the requirements as specified in Section 18499 of this Article. This evidence shall be maintained at each major waste tire facility, whenever possible, or at an alternate, designated location approved by the Board or its designee and which is accessible to the operator, and available for Board staff review.

(b) An operator shall maintain the following types of evidence, and shall maintain an original or copy of each mechanism used to demonstrate financial responsibility under this Article:

(1) Trust Fund. An operator using a trust fund shall maintain a copy of the trust agreement and statements verifying the current balance of the fund.

(2) Government Securities. An operator using government securities shall maintain a copy of the following:

(A) All official resolutions, forms, letters, or other pertinent documents generated to issue the securities;

(B) The terms of issuance of the securities; and

(C) With respect to the mechanism into which the funds generated by the issuance are deposited

Identify the major waste tire facilities covered by the fund and the amount of third party liability coverage;

Include a letter from an authorized officer of the institution maintaining the mechanism identifying the amount of funds provided by the mechanism as of the anniversary date of each mechanism for each year; and

Include a copy of the evidence documenting that the mechanism meets the

requirements of Section 18490(b) of this Article.

(3) Insurance. An operator using insurance shall maintain the original or a copy of the insurance policy in addition to the original or a copy of the liability insurance endorsement or the certificate of liability insurance.

(4) Self-Insurance and Risk Management. An operator using self-insurance and risk management shall maintain:

(A) The name and qualifications of the currently employed risk manager;

(B) Pertinent documents verifying the ongoing activity of the operator's safety and loss prevention program; and

(C) Pertinent documents showing procedures for timely investigation and resolution of any claims for third party damages caused by accidental occurrences and other self-insured losses.

(5) Financial Means Test. An operator using a financial means test shall maintain a copy of the information specified in Section 18493(e) of this Article.

(6) Corporate Guarantee. An operator using a corporate guarantee shall maintain documentation of the corporate guarantee as specified in Section 18494(a),(b),and (c) of this Article.

(c) An operator shall submit the documentation of current evidence of financial responsibility listed in Section 18498(b) to the Board or its designee whenever a financial assurance mechanism is established or amended:

(1) In the case of a trust fund such documentation shall include the original mechanism and a copy of the current statement verifying the balance of the account;

(2) In the case of government securities such documentation shall include the information as specified in Section 18498(b)(2) of this Article;

(3) In the case of a financial means test, or a corporate guarantee, such documentation shall include the original mechanism; or

(4) In the case of insurance or self-insurance and risk management, such documentation shall include the original liability insurance endorsement, certificate of liability insurance, or certificate of self-insurance and risk management.

(d) An operator shall submit written notice to the Board or its designee of the number of claims paid and the total dollar amount paid as a result of an accidental occurrence at an operating facility. This information shall be compiled for the previous calendar year and submitted to the Board or its designee by March 1st of each year.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Section 18499. Release of an Operator from the Requirements.

(a) After approving the closure of the major waste tire facility as specified in Article 6, the Board or its designee shall notify the operator and the provider of financial assurance in writing, that he or she is no longer required to demonstrate financial responsibility by this Article for third party operating liability, at the particular facility.

(b) When operational control of a major waste tire facility is transferred, the existing operator shall remain subject to the requirements of this Article until the new operator provides acceptable financial assurances to the Board or its designee.

Authority cited: *Section 40502 and 42820, Public Resources Code.*

Reference: *Section 42821, Public Resources Code.*

Article 11. Financial Assurances Enforcement Procedures for Major Waste Tire Facilities

Section 18499.1 Scope and Applicability.

All operators of major waste tire facilities shall be subject to the requirements of this Article, except state and federal operators.

Authority cited: *Section 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Section 40502, 42850 and 42850.1, Public Resources Code.*

Section 18499.2. Definitions.

(a) "Degree of non-compliance" means the status of compliance of an operator with the financial assurance requirements. An operator is either: 1) partially out of compliance with the requirements ("Minor"); or 2) completely out of compliance with the requirements ("Major").

(b) "Potential for harm" means the degree to which operator's actions adversely affect the public health, safety and the environment. This potential is based on the number of tires for which that facility is permitted.

(1) Major: 1,000,001 tires or more, or tire equivalents.

(2) Moderate: 200,001 to 1,000,000 tires or tire equivalents.

(3) Minor: 5000 to 200,000 tires or tire equivalents.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Section 18499.3. Notice of Violation.

(a) CalRecycle shall send a written Notice of Violation to an operator violating the requirements of Articles 9 or 10 of this Chapter (commencing with Section 18470).

(b) The Notice of Violation shall:

(1) describe the violation which CalRecycle staff believe is occurring; and

(2) describe the consequences of continued failure to comply or respond.

(c) All operators shall submit a response to a Notice of Violation within 10 working days from receipt of the Notice of Violation.

(d) CalRecycle may consider all contacts with an operator as “good faith” efforts to comply with this Chapter, and CalRecycle may extend the timeframe for an operator to respond and/or comply, as CalRecycle deems necessary, to assure adequate financing for closure activities and operating liability.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Section 18499.4. Issuance of Notice and Order, Cleanup and Abatement Order, and/or Stipulated Notice and Order.

(a) If an operator fails to respond to the Notice of Violation within the specified timeframe, CalRecycle shall draft and send a Notice and Order or Cleanup and Abatement Order to the operator.

(b) An operator shall respond to CalRecycle with evidence of compliance, or request an alternate schedule for compliance, within 10 working days from receipt of the Order.

(c) If an operator responds to the Order by offering partial compliance immediately, and full compliance over a period of time, which is acceptable to CalRecycle, CalRecycle may enter into a Stipulated Notice and Order with the operator.

(d) If an operator fails to conform with the compliance schedule within the specified timeframe as provided in the Notice and Order, Cleanup and Abatement Order or Stipulated Notice and Order, further enforcement action may be taken by CalRecycle, as specified in the Notice and Order, Cleanup and Abatement Order, or Stipulated Notice and Order.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Section 18499.5. Compliance Options.

(a) CalRecycle may consider compliance options other than imposing penalties, to assure adequate financing for closure activities and operating liability. CalRecycle may

consider options that include, but are not limited to:

(1) Placing restrictions on current financial assurance mechanism(s) being used by the operator such as more frequent reporting requirements.

(2) Prohibiting use of current financial assurance mechanism(s) being used by the operator, and requiring the operator to establish an alternate mechanism as prescribed in Section 18473 and 18488 of this Title.

Authority cited: Sections 40502, 42850 and 42850.1, Public Resources Code.

Reference: Sections 40502, 42850 and 42850.1, Public Resources Code.

Section 18499.6. Penalty Calculations.

a) If CalRecycle chooses to impose a penalty, the daily penalty shall equal an amount determined by the gravity-based matrix, in Table 1, using the degree of non-compliance and the potential for harm as the deciding factors, added to the economic benefit an operator receives from noncompliance with this Chapter.

Table 1. Degree of Non-Compliance

Potential for Harm	Major	Minor
Major	\$10,000 to \$905	\$904 to \$804
Moderate	\$803 to \$703	\$702 to \$652
Minor	\$651 to \$551	\$550 to \$500

(1) The economic benefit portion of penalty for lack of liability coverage shall be based on a minimum annual premium for liability insurance, as identified by a CalRecycle survey of the insurance industry. The premium is multiplied by the number of years an operator is out of compliance (rounded up to the next whole year if a partial year of non-compliance exists).

(2) The economic benefit portion of a penalty for lack of coverage for closure costs shall be based on the current cost of a letter of credit or bond, as identified by a CalRecycle survey of the banking industry or insurance industry, respectively. The cost for a letter of credit or bond is multiplied by the pro-rata factor for the length of time of non-compliance.

(b) Determinations of penalty amounts may be modified by CalRecycle for one or more of the following reasons:

(1) Evidence that coverage has been subsequently provided, such as bank statements, letter from county treasurer verifying balance of fund, certificate demonstrating adequate coverage, etc.

- (2) Evidence of a payment schedule, if applicable, detailing the operator's good faith efforts has been subsequently provided, such as past deposits to the financial assurance mechanism, etc.
 - (3) An operator's good faith efforts to comply or lack of good faith.
 - (4) An operator's degree of willingness to comply.
 - (5) An operator's history of compliance.
 - (6) Other unique factors such as size of operation, threat to public health and safety and the environment.
- (c) Penalties may be pursued by CalRecycle administratively or through superior court as specified in Public Resources Code, Sections 42850 and 42850.1.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Section 18499.7. Processing and Collection of Civil Penalty.

Processing and collection of civil penalties shall be made by CalRecycle as provided in Public Resources Code Section 42855.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850, 42850.1 and 42855, Public Resources Code.*

Section 18499.8. Appeals Process.

Any aggrieved person may appeal a Notice and Order or Cleanup and Abatement Order by CalRecycle, according to Public Resources Code, Section 42854.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42850, 42850.1 and 42854, Public Resources Code.*

Section 18499.9. Continued or Recurring Violations.

(a) If an operator pays an initial penalty but fails to correct the violation pursuant to Notice and Order or Cleanup and Abatement Order, or has recurring violations within a one year period from the date of the preceding Notice of Violation:

- (1) CalRecycle may re-initiate the enforcement process;
- (2) CalRecycle may pursue action to revoke a permit, according to Public Resources Code Section 42843, and/or pursue closure of the facility;
- (3) CalRecycle may pursue both (1) and (2) above.

Authority cited: *Sections 40502, 42850 and 42850.1, Public Resources Code.*

Reference: *Sections 40502, 42843, 42850 and 42850.1, Public Resources Code.*

Chapter 7. Special Waste Standards

SubChapter Ghost Header for Outline ADA Compliance

Article 1. General

Section 18500. Scope.

The regulations contained in Chapter 7 pertain to the California Integrated Waste Management Board's requirements regarding activities related to special wastes, including but not limited to household hazardous wastes.

Authority cited: *Sections 40502 and 41824, Public Resources Code.*

Reference: *Sections 40052 and 46400, Public Resources Code.*

Article 1.1. Definitions

Section 18502. Definitions.

(a) The following definitions shall apply to the regulations contained in this Chapter.

(1) "Act" means the Solid Waste Disposal Site Hazard Reduction Act of 1989 (Statutes of 1989, Chapter 1095).

(2) "Account" means the Solid Waste Disposal Site Cleanup and Maintenance Account described in Section 46800 of the Public Resources Code.

(3) "Applicant" means a city, county or local agency applying for a grant award.

(4) "Board" means the California Integrated Waste Management Board.

(5) "DTSC" means the Department of Toxic Substances Control.

(6) "Fiscal Year" means the year commencing on the first day of July and ending on June 30 of each year.

(7) "Grant" means an award of funds in either of the following manners:

(A) "Discretionary Grant" means an award of funds to a city, county or local agency which is based on the evaluation and selection of the applicant's proposed or implemented Household Hazardous Waste Program pursuant to Section 18533.1 of Article 2.2, and which is subject to fund availability in the Account after all non-discretionary grants have been awarded.

(B) "Non-discretionary Grant" means an award of funds to a city, county or local agency which has implemented a Household Hazardous Waste Program during the fiscal year

prior to the grant application; and which meets the specific criteria for the non-discretionary award pursuant to Section 18515 of Article 2.1.

(8) "Grant Agreement" means the written document, any amendment(s) and written change orders thereto, which is signed by the Board or its designated representative and the grant recipient and which defines the terms, provisions and conditions governing the grant. The terms of the grant agreement shall be for a period negotiated between the grant recipient and the Board.

(9) "Grant Recipient" means the city, county or local agency which receives a grant award from the Board.

(10) "Grant Year" means that time period in which the grant application submittal process, selection and award distribution will occur. The time period will begin on the first day of July in one year and end on June 30 of the next calendar year.

(11) "Hazardous Waste" (HW) means waste as defined in Section 40141 of the Public Resources Code and Section 25117 Health and Safety Code: that is, waste or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(A) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(B) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(12) "Household Hazardous Waste" (HHW) means waste materials determined by the Board, the Department of Health Services (DHS), the State Water Resources Control Board (SWRCB), or the Air Resources Board (ARB) to be:

(A) Of such a nature that they must be listed as hazardous in state statutes and regulations; or are

(B) Toxic/ignitable/corrosive/reactive; and

(C) Carcinogenic/mutagenic/teratogenic; which is discarded from householders as opposed to businesses.

(13) "HHW Program" means a program sponsored by a city, county or local agency which results in the separation of HW and/or HHW from the solid waste stream. An HHW Program may include, but is not limited to, the following activities:

(A) Load Checking Programs;

(B) Collection Programs

(1) Periodic

(2) Permanent

(3) Mobile Collection Program

(4) Residential Pick-up Service;

(C) Waste Control and Enforcement Programs;

(D) Educational Programs; and/or

(E) Other program activities incorporating reuse, reduction, or recycling of HW and HHW.

(14) "Jurisdiction" means any city, county, or local agency with responsibility for waste management.

(15) "Load Checking Program" means a program which provides for physical inspection and removal of hazardous wastes from the incoming waste stream at any solid waste facility, as defined in Section 40194 of the Public Resources Code.

(16) "Local agency" means any public agency which is responsible for waste management and which sponsors a program(s) to prevent the disposal of HW and/or HHW at a solid waste disposal facility.

(17) "Local Funding" means those monies originating solely from a jurisdiction which are to be used or were used to conduct a HHW collection program.

(18) "Mobile Collection Program" means two or more permanent household hazardous waste collection sites utilizing at least one transportable container for the sites and operated on an intermittent schedule.

(19) "Periodic HHW Collection Program" means a program in which a jurisdiction sponsors HHW collection activities at least once a year with each collection event beginning and ending within a one week period (seven days).

(20) "Permanent HHW Collection Program" means a program in which a jurisdiction sponsors the maintenance of a permanent HHW collection program at a specific site which is open to the public at least for one day, or a portion of that day, each week.

(21) "Proposal" means that part of a discretionary grant application from a jurisdiction specifying its intent to establish or implement a HHW Program, commencing in the fiscal year following the application period, which consists of a newly established program or incorporates a new or added service or capability to an existing HHW program.

(22) "Recycling Activities" means those projects which divert hazardous materials from non-hazardous solid waste landfills; and which utilize one or more of the processes of collecting, sorting, cleansing, treating, and reconstituting materials that would otherwise become solid waste, and returning them to the economic mainstream in the form of raw

material for new, reused, or reconstituted products which meet the quality standards necessary to be used in the marketplace. "Recycling" does not include transformation, as defined in Section 40201 of the Public Resources Code.

(23) "Reduction" means to use only the required amount of a product which contains a hazardous ingredient(s) for a specific task; and/or to use a product containing a lesser amount of a hazardous ingredient(s) in comparison with other brands of the same type of product.

(24) "Regional" means any area which includes two or more jurisdictions responsible for waste management. This includes two or more cities, two or more counties, or two or more local agencies, or the combination of a city (cities), a county (counties) and/or local agency (agencies).

(25) "Residential Pick-up Service" means the service sponsored by a city, county or local agency for the residents of a community whereby HHW is picked up from each resident's home.

(26) "Reuse" means the use of a product containing a hazardous ingredient after it is no longer needed by the person who originally purchased and/or used the product.

(27) "Waste Control and Enforcement Programs" means a program as provided in Section 46400(b) of the Public Resources Code.

Authority cited: *Sections 40502, 41824, 46205 and 46208, Public Resources Code.*

Reference: *Section 40180, 40201, 46400 and 46401, Public Resources Code.*

Article 2. General Provisions

Section 18504. Scope and Applicability.

(a) The regulations contained in' this Article set forth the criteria needed by cities, counties and local agencies responsible for waste management to apply for and receive a grant of funds from the Solid Waste Disposal Site Cleanup and Maintenance Account (Account).

(b) This Article applies to all cities, counties and local agencies which are either:

(1) currently implementing a program or activity which prevents the disposal of HW, including HHW into solid waste landfills, or

(2) proposing the establishment of programs or services to prevent the disposal of HW, including HHW, into solid waste landfills.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18505. Programs Eligible for Funding.

HHW Programs eligible for funding from the Account include, but are not limited to, the following activities:

- (a) Load Checking Programs;
- (b) Collection Programs
 - (1) Periodic
 - (2) Permanent
 - (3) Mobile
 - (4) Residential Pick-up Service;
- (c) Waste Control and Enforcement Programs;
- (d) Educational Programs; and/or
- (e) Other program activities incorporating reuse, reduction, or recycling of HW and HHW.

Authority cited: *Sections 46205, 46208, 46400, and 46401, Public Resources Code.*
Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18506. Grant Application Process.

- (a) A jurisdiction, with an eligible program, shall submit the documents specified in Section 18515 of Article 2.1 or Sections 18533 and 18533.1 of Article 2.2, whichever are applicable, in order to apply for a grant award.
- (b) Documents required in (a) of this Section shall be submitted to the principal place of business of the California Integrated Waste Management Board, in care of the HHW Management Program.
- (c) An original and three (3) copies of the documents required in (a) of this Section shall be submitted to the Board. All materials submitted will become the property of the Board and will be retained for a minimum of three years.
- (d) The required application documents shall be received by the Board on or before the close of the application period specified in either Section 18511 of Article 2.1 or Section 18531 of Article 2.2, whichever is applicable.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*
Reference: *Sections 46400 and 46401, Public Resources Code.*

Article 2.1. Non-Discretionary Grants. [Repealed]

Article 2.2. Discretionary Grants.

Section 18530. Grant Eligibility.

(a) A jurisdiction which has not received a non-discretionary grant in accordance with Article 2.1, Section 18512, and which submits a grant application for a HHW program to ensure that HW, including, but not limited to, HHW, is not disposed of in a solid waste landfill, and which meets the definition of a HHW Program under Section 18502(a)(13) and that of a proposal under Section 18502(a)(21) of this Chapter, is eligible for a discretionary grant.

(b) A jurisdiction which has received a non-discretionary grant in accordance with Article 2.1, Section 18512, remains eligible to receive a discretionary grant under this Article for the following:

(1) A HHW program which meets the definition under Section 18502(a)(14) of this Chapter; and/or

(2) a portion of an HHW program which was not funded under Article 2.1 of this Chapter in the same grant year.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18531. Grant Application Period.

Applications for discretionary grants will be accepted beginning on the first Monday in December of each year commencing in December, 1990, until 4:00 p.m. on the last Friday in February of the next calendar year. Applications received after that date will be returned to the applicant.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Section 46401, Public Resources Code.*

Section 18532. Grant Amount.

The Board may award a discretionary grant to an eligible jurisdiction in an amount to be determined by the Board, but the amount shall not exceed \$120,000 for any individual grant. The award amount will be based upon the amount of monies remaining in the Account after all non-discretionary grants have been awarded for the previous calendar year.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18533. Contents of the Grant Application.

Any jurisdiction which applies for a discretionary grant shall submit an application to the Board which includes, but is not limited to, the following:

(a) An application cover sheet, CIWMB Form 302, 3/90 which is incorporated by reference.

(b) A application shall, at a minimum, incorporate the following elements describing the proposed or implemented program:

(1) A description of the HHW disposal problem in the applicant's jurisdiction, including, the amount of HHW generated in the geographic area to be serviced. Include a discussion of the jurisdiction's Waste Generation Study as it relates to the identified HHW disposal problem.

(2) The HHW Element of the Countywide Integrated Waste Management Plan prepared pursuant to Public Resources Code Section 41750.

(3) A general description of program goals or objectives for the proposed or completed program, including specific actions which will be taken to mitigate the HHW disposal problem. This Section must include a description of the program being proposed and discuss the proposed program in relation to the applicant's HHW Element.

(4) An identification of the tasks necessary to complete the proposed program and an implementation schedule for the proposed tasks.

(5) The geographic area to be serviced, or the geographic area that was serviced.

(6) A budget report describing the costs for each completed program or proposed project within the overall HHW program. This shall include the actual or projected costs of staff, hazardous waste contractor fees, and the actual or projected costs for education, public awareness and/or advertising.

(7) A description of funding sources other than the Account, which will be used, or which have been used for the program.

(8) A report on insurance coverage for the project(s) as required by Title 22, California Code of Regulations, Section 67027.147, if applicable.

(9) A copy of or status report on any required variances or permits from the DTSC, and the federal Environmental Protection Agency generator identification number.

(10) A description of any recycling and/or reuse efforts for HHW which will be, or which have been, utilized in conjunction with the proposed project, or completed program, whichever is applicable.

(11) A description of public education and awareness efforts to be utilized or which have

been utilized.

(12) A description of cooperative efforts between local government agencies and interested citizen associations and groups, if any, regarding implementation of the program.

(13) Methods the jurisdiction plans to use to evaluate the success of the program, or methods which were used to evaluate the success of the program, whichever is applicable.

(14) A resume of management personnel for the program, detailing their qualifications and experience.

(15) A resolution from the jurisdiction's governing body authorizing submittal of the grant application and identifying the individual authorized to execute all necessary applications, contracts, agreements and amendments to carry out the purposes specified in the application.

(c) The grant application for a discretionary grant may be accompanied by a list of the costs associated with the implementation of specific tasks of the grant application required by (a)(3) in order for the Board to provide partial funding for the program.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18533.1. Contents of the Grant Proposal. [Repealed]

Section 18534. Review of Grant Application.

(a) The Board shall review a discretionary grant application for the following:

(1) to verify that the application is complete; and

(2) to verify that the grant proposal incorporates the elements required by Sections 18533 and 18533.1 of this Article; and

(3) to evaluate the application to determine its eligibility for partial funding of an HHW Program.

(b) The Board may request additional information related to the discretionary grant application required pursuant to Section 18533 of this Article. The applicant will have 10 (ten) working days, or as specified by the Board, to submit the requested information to the Board or it will be disqualified from consideration for a discretionary grant.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Sections 46400 and 46401, Public Resources Code.*

Section 18534.1. Selection of Grant Recipient.

(a) The Board shall select one or more grant recipients based upon the recipient's satisfaction of the grant proposal elements required pursuant to Section 18533.1 of this Article.

(b) The Board shall give lower priority for grant awards to grant applicants who have received funding for non-discretionary grants under Article 2.1 of this Chapter in the same grant year; and for those applicants who had received discretionary grant funding in the year prior to the current grant year cycle.

Authority cited: *Section 46208 , Public Resources Code*.

Reference: *Sections 46400 and 46401, Public Resources Code*.

Section 18535. Payment of Grant Funds.

Discretionary grant recipients will be awarded grant funds no later than June 30 of each year, commencing in June, 1991.

Authority cited: *Sections 46208 and 46400, Public Resources Code*.

Reference: *Section 46401, Public Resources Code*.

Section 18536. Grant Agreement.

(a) The grant recipient and the Board shall enter into a written grant agreement which contains the grant proposal as approved and which identifies and ensures compliance with the terms and conditions specified in Section 18536.1 and any other special conditions or terms which the Board may deem necessary.

(b) written Approval of Changes to Grant Agreement. The recipient shall obtain prior written approval from the Board, or its designated representative, for any changes to the grant agreement. All requests shall include a description of the proposed change(s) and the reason(s) for the changes.

Authority cited: *Section 46208, Public Resources Code*.

Reference: *Sections 46205, Public Resources Code*.

Section 18536.1. Terms and Conditions of a Grant Agreement.

The grant recipient shall comply with the following terms and conditions:

(a) Quarterly Progress Reports. The grant recipient shall submit a quarterly progress report to the Board within 30 days following the end of each quarter. The report shall include, but not be limited to:

(1) A statement that the program(s) is or is not on schedule, and a description of the program tasks or milestones and the status of each. Pertinent reports or interim findings shall be appended.

(2) A discussion of any difficulties or special problems encountered in accomplishing the project tasks.

(3) A financial report comparing costs to date with the approved scope of work and the original budget. The report should state whether the program(s) is progressing within the approved budget, and an explanation of any current or anticipated deviations. The report shall include a Balance Sheet showing the program's current assets and liabilities as well as a Statement of Expenditures.

(4) A report of any changes in management personnel.

(5) The report for the fourth quarter will be the Final Report required pursuant to (e) of this Section.

(b) Compliance. Grant recipients shall comply with all applicable federal, state and local laws, ordinances, regulations and permits. The recipient shall secure any permits or variances required by the DDS and EPA and any other authorities having jurisdiction over the program(s) including but not limited to, the California Integrated Waste Management Board and the appropriate Regional Water Quality Control Boards. The grant recipients shall maintain or revise all applicable permits, such as solid waste facility permits, as needed.

(c) Auditing.

(1) All grant recipients shall maintain an accounting system for the program that utilizes generally accepted accounting principles and practices. The Board, the State controller's Office and the State Auditor General's Office or their designated representative(s) shall have absolute right of access to all of the grant recipient's records pertaining to the grant agreement in order to conduct reviews and/or audits.

(2) In addition to accounting records, all source documents associated with the accounting records shall be maintained. Source documents include, but are not limited to, bid summaries, contracts with the grant recipient, change orders showing approval by a city or county engineer, purchase orders, invoices, paid warrants, time sheets, labor distribution reports and payroll registers.

(3) The accounting records and source documents shall be retained by the grant recipient for at least three (3) years after expiration of the grant agreement, or until the completion of a Board action and/or resolution of issues which may arise as a result of any litigation, claim negotiation or audit.

(4) If an audit reveals that grant funds have not been spent in accordance with the grant agreement, the recipient shall be required to forfeit the unexpended portion of the grant and repay any improperly spent monies, plus interest at the rate the state would have earned on this money had it remained in the Account. Such forfeitures shall revert to the Account.

(d) Grant Termination. The Board may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined by the Board as a whole, that the recipient has failed to comply with the terms or conditions of the grant agreement. The Board shall notify the recipient within five working days, in writing, of

the determination, the reasons for the termination of the grant, and the effective date of termination.

(e) Final Report. At the end of each fiscal year during which funds are received, the grant recipient shall submit a final report. The report shall be submitted within 60 days of the end of the fiscal year and include, but not be limited to:

(1) A Table of Contents.

(2) A brief summary of the objectives of the grant and how these objectives were accomplished.

(3) Any findings, conclusions, or recommendations for additional activities which result from the Successful completion of the program for that grant year. A statement, if applicable, of future public and/or private support to maintain or further develop the program.

(4) A list of contractors who participated, in whole or in part, in the grant program, including the names, addresses and a description of their work.

(5) Final Financial Statement for the Program. This report shall provide information that enables the Board to determine the final specific use for all grant funds. It shall indicate all other sources of funds utilized by the program. The report shall also account for all revenues generated by the program.

Authority cited: *Sections 46205 and 46208, Public Resources Code.*

Reference: *Section 46401, Public Resources Code.*

**Article 3. Used Oil Collection Demonstration Grant.
[Repealed]**

Article 4. General Provisions. [Repealed]

Article 5. Grants. [Repealed]

Chapter 9. Planning Guidelines and Procedures for Preparing and Revising Countywide and Regional Agency Integrated Waste Management Plans

SubChapter Ghost Header for Outline ADA Compliance

Article 3. Definitions.

Section 18700. Authority. [Repealed]

Section 18720. Definitions. (a) The following definitions shall apply to the regulations contained in this chapter.

(1) Agricultural wastes.

“Agricultural wastes” means solid wastes of plant and animal origin, which result from the production and processing of farm or agricultural products, including manures, orchard and vineyard prunings, and crop residues, which are removed from the site of generation for solid waste management. Agricultural refers to SIC Codes 011 through 0291.

(2) Aluminum can or aluminum container.

“Aluminum can” or “aluminum container” means any food or beverage container that is composed of at least 94% aluminum.

(3) Asbestos.

“Asbestos” means fibrous forms of various hydrated minerals, including chrysotile (fibrous serpentine), crocidolite (fibrous riebeckite), amosite (fibrous cummingtonite-grunerite), fibrous tremolite, fibrous actinolite, and fibrous anthophyllite.

(4) Ash.

“Ash” or “ashes” means the residue from the combustion of any solid or liquid material.

(5) Bi-metal container.

“Bi-metal container” means any metal container composed of at least two different types of metals, such as a steel container with an aluminum top.

(6) Best readily available and applicable data or representative data.

“Best readily available and applicable data” or “representative data” means information that is available to a jurisdiction from published sources, field sampling, the Board, or other identifiable entities which is the most current data and which addresses the situation being examined.

(7) Buy-back recycling center.

“Buy-back recycling center” means a facility which pays a fee for the delivery and transfer of ownership to the facility of source separated materials, for the purpose of recycling or composting.

(8) Capital costs.

“Capital costs” means those direct costs incurred in order to acquire real property assets such as land, buildings and building additions; site improvements; machinery; and equipment.

(9) Commercial solid wastes.

“Commercial solid waste” means solid waste originating from stores, business offices, commercial warehouses, hospitals, educational, health care, military, and correctional institutions, non-profit research organizations, and government offices. Commercial solid waste refers to SIC Codes 401 through 4939, 4961, and 4971 (transportation, communications and utilities), 501 through 5999 (wholesale and retail trade), 601 through 679 (finance, insurance and real estate), 701 through 8748 (public and private service industries such as hospitals and hotels), and 911 through 9721 (public administration). Commercial solid wastes do not include construction and demolition waste.

(10) Commercial unit.

“Commercial unit” means a site zoned for a commercial business and which generates commercial solid wastes.

(11) Composition.

“Composition” means a set of identified solid waste materials, categorized into waste categories and waste types pursuant to Sections 18722(i) and (j) of Article 6.1 of this chapter.

(12) Composting.

“Composting” means a method of waste treatment which produces a product meeting the definition of “compost” in Public Resources Code Section 40116.

(13) Composting facility.

“Composting facility” means a permitted solid waste facility at which composting is

conducted and which produces a product meeting the definition of “compost” in Public Resources Code Section 40116.

(14) Construction and demolition waste.

“Construction and demolition waste” includes solid wastes, such as building materials; and packaging and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings, and other structures. Construction refers to SIC Codes 152 through 1794, 1796, and 1799. Demolition refers to SIC Code 1795.

(15) Corrugated Container.

“Corrugated container” means a paperboard container fabricated from two layers of kraft linerboard sandwiched around a corrugating medium. Kraft linerboard means paperboard made from wood pulp produced by a modified sulfate pulping process, with basis weight ranging from 18 to 200 pounds, manufactured for use as facing material for corrugated or solid fiber containers. Linerboard also may mean that material which is made from reclaimed paper stock. Corrugating medium means paperboard made from chemical or semichemical wood pulps, straw or reclaimed paper stock, and folded to form permanent corrugations. Corrugated container refers to SIC Code 2653.

(16) Cost-effective.

“Cost-effective” means a measurement of cost compared to an unvalued output (e.g., the cost per ton of solid waste collected) such that the lower the cost, the more cost-effective the action.

(17) Disposal.

“Disposal” means the management of solid waste through landfilling or transformation at permitted solid waste facilities.

(18) Disposal capacity.

“Disposal capacity” means the capacity, expressed in either weight in tons or its volumetric equivalent in cubic yards, which is either currently available at a permitted solid waste landfill, or will be needed for the disposal of solid waste generated within the jurisdiction over a specified period of time.

(19) Diversion Alternative.

“Diversion alternative” means any activity, existing or occurring in the future, which has been, is, or will be implemented by a jurisdiction which could result in or promote the diversion of solid waste, through source reduction, recycling or composting, from solid waste landfills and transformation facilities.

(20) Drop-off recycling center.

“Drop-off recycling center” means a facility which accepts delivery or transfer of ownership of source separated materials for the purpose of recycling or composting, without paying a fee. Donation of materials to collection organizations, such as charitable groups, is included in this definition.

(21) Durability.

“Durability” means the ability of a product to be used for its intended purpose for a period greater than the mean useful product life span of similar products.

(22) End market or end use.

“End market” or “end use” means the use or uses of a diverted material or product which has been returned to the economic mainstream, whether or not this return is through sale of the material or product. The material or product can have a value which is less than the solid waste disposal cost.

(23) Feasible.

“Feasible” means that a specified program, method, or other activity can, on the basis of cost, technical requirements and time frame for accomplishment, be undertaken to achieve the objectives and tasks identified by a jurisdiction in a Countywide Integrated Waste Management Plan.

(24) Ferrous metals.

“Ferrous metals” means any iron or steel scrap which has an iron content sufficient for magnetic separation.

(25) Food waste.

“Food waste” means all animal and vegetable solid wastes generated by food facilities, as defined in California Health and Safety Code Section 27521, or from residences, that result from the storage, preparation, cooking, or handling of food.

(26) Hazard.

“Hazard” means having one or more of the characteristics that cause a substance or combination of substances to qualify as a hazardous material, as defined by Section 66084 of title 22 of the California Code of Regulations.

(27) Household hazardous waste.

“Household hazardous wastes” are those wastes resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed.

(28) Household hazardous waste collection.

“Household hazardous waste collection” means a program activity in which household hazardous wastes are brought to a designated collection point where the household hazardous wastes are separated for temporary storage and ultimate recycling, treatment, or disposal.

(29) Implementation.

“Implementation” means the accomplishment of the program tasks as identified in each component required by Section 18733 of this chapter.

(30) Industrial solid waste.

“Industrial solid waste” means solid waste originating from mechanized manufacturing facilities, factories, refineries, construction and demolition projects, and publicly operated treatment works, and/or solid wastes placed in debris boxes.

(31) Industrial unit.

“Industrial unit” means a site zoned for an industrial business and which generates industrial solid wastes.

(32) Inert solids or inert waste.

“Inert solids” or “inert waste” means a non-liquid solid waste including, but not limited to, soil and concrete, that does not contain hazardous waste or soluble pollutants at concentrations in excess of water-quality objectives established by a regional water board pursuant to division 7 (commencing with Section 13000) of the California Water Code and does not contain significant quantities of decomposable solid waste.

(33) Jurisdiction.

“Jurisdiction” means the city or county responsible for preparing any one or all of the following: the Countywide Integrated Waste Management Plan, or the Countywide Siting Element, or the Source Reduction and Recycling Element.

(34) Marine wastes.

“Marine wastes” means solid wastes generated from marine vessels and ocean work platforms, solid wastes washed onto ocean beaches, and litter discarded on ocean beaches.

(35) Market development.

“Market development” means a method of increasing the demand for recovered materials so that end markets for the materials are established, improved or stabilized and thereby become more reliable.

(36) Materials recovery facility.

“Materials recovery facility” means a permitted solid waste facility where solid wastes or recyclable materials are sorted or separated, by hand or by use of machinery, for the purposes of recycling or composting.

(37) Medium-term planning period.

“Medium-term planning period” means a period beginning in the year 1996 and ending in the year 2000.

(38) Mixed paper.

“Mixed paper” means a waste type which is a mixture, unsegregated by color or quality, of at least two of the following paper wastes: newspaper, corrugated cardboard, office paper, computer paper, white paper, coated paper stock, or other paper wastes.

(39) Model component format.

“Model component format” means that format described in Sections 18733.1 through 18733.6 of Article 6.2 of this chapter which shall be used for preparation of several of the individual components of a SRR Element.

(40) Municipal solid waste or MSW.

“Municipal solid waste” or “MSW” means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, at food-processing facilities, and at treatment works for water and waste water, which are collected and transported under the authorization of a jurisdiction or are self-hauled. Municipal solid waste does not include agricultural crop residues (SIC Codes 071 through 0724, 0751), animal manures (SIC Code 0751), mining waste and fuel extraction waste (SIC Codes 101 through 1499), forestry wastes (SIC Codes 081 through 0851, 2411 and 2421), and ash from industrial boilers, furnaces and incinerators.

(41) Non-ferrous metals.

“Non-Ferrous metals” means any metal scraps that have value, and that are derived from metals other than iron and its alloys in steel, such as aluminum, copper, brass, bronze, lead, zinc and other metals, and to which a magnet will not adhere.

(42) Non-recyclable paper.

“Non-recyclable paper” means discarded paper which has no market value because of its physical or chemical or biological characteristics or properties.

(43) Non-renewable resource.

“Non-renewable resource” means a resource which cannot be replenished, such as those resources derived from fossil fuels.

(44) Normally disposed of.

“Normally disposed of” refers to those waste categories and waste types which:

1) have been demonstrated by the Solid Waste Generation Study, conducted pursuant to Section 18722 of this chapter, to constitute at least 0.001% of the total weight of solid wastes disposed in a solid waste stream attributed to the jurisdiction as of January 1, 1990;

2) which are deposited at permitted solid waste landfills or transformation facilities subsequent to any recycling or composting activities at those solid waste facilities; and

3) which are allowed to be considered in the establishment of the base amount of solid waste from which source reduction, recycling, and composting levels shall be calculated, pursuant to the limitations listed in Public Resources Code Section 41781(b).

(45) Old newspaper.

“Old newspaper” means any newsprint which is separated from other types of solid waste or collected separately from other types of solid waste and made available for reuse and which may be used as a raw material in the manufacture of a new paper product.

(46) Operational costs.

“Operational costs” means those direct costs incurred in maintaining the ongoing operation of a program or facility. Operational costs do not include capital costs.

(47) Organic waste.

“Organic waste” means solid wastes originated from living organisms and their metabolic waste products, and from petroleum, which contain naturally produced organic compounds, and which are biologically decomposable by microbial and fungal action into the constituent compounds of water, carbon dioxide, and other simpler organic compounds.

(48) Other plastics.

“Other plastics” means all waste plastics except polyethylene terephthalate (PET) containers, film plastics, and high density polyethylene (HDPE) containers.

(49) Permitted capacity.

“Permitted capacity” means that volume in cubic yards or weight in tons which a solid waste facility is allowed to receive, on a periodic basis, under the terms and conditions of that solid waste facility’s current Solid

Waste Facilities Permit issued by the local enforcement agency and concurred in by the California Integrated Waste Management Board.

(50) Permitted landfill.

“Permitted landfill” means a solid waste landfill for which there exists a current Solid Waste Facilities Permit issued by the local enforcement agency and concurred in by the California Integrated Waste Management Board, or which is permitted under the regulatory scheme of another state(51) Permitted solid waste facility.

“Permitted solid waste facility” means a solid waste facility for which there exists a Solid Waste Facilities Permit issued by the local enforcement agency and concurred in by the California Integrated Waste Management Board, or which is permitted under the regulatory scheme of another state.

(52) Plan or Countywide Integrated Waste Management Plan.

“Plan” or “Countywide Integrated Waste Management Plan” means the Countywide Integrated Waste Management Plan as defined in Section 41750 of the Public Resources Code.

(53) Program.

“Program” means the full range of source reduction, recycling, composting, special waste, or household hazardous waste activities undertaken by or in the jurisdiction or relating to management of the jurisdiction’s waste stream to achieve the objectives identified in the Source Reduction, Recycling, Composting, and Special Waste components, and Household Hazardous Waste Element, respectively.

(54) Purchase preference.

“Purchase preference” means a preference provided to a wholesale or retail commodity dealer which is based upon the percentage amount that the costs of products made from recycled materials may exceed that of similar non-recycled products and still be deemed the lowest bid.

(55) Rate structure.

“Rate structure” means that set of prices established by a jurisdiction, special district (as defined in Government Code Section 56036), or other rate setting authority to compensate the jurisdiction, special district or rate setting authority for the partial or full costs of the collection, processing, recycling, composting, and/or transformation or landfill disposal of solid wastes.

(56) Recovered material.

“Recovered material” means material which has been retrieved or diverted from disposal or transformation for the purpose of recycling, re-use or composting.

“Recovered material” does not include those materials generated from and reused on site for manufacturing purposes.

(57) Region.

“Region” means the combined geographic area of two or more incorporated areas; two or more unincorporated areas; or any combination of incorporated and unincorporated areas.

(58) Repairability.

“Repairability” means the ability of a product or package to be restored to a working or usable state at a cost which is less than the replacement cost of the product or package.

(59) Residential solid waste.

“Residential solid waste” means solid waste originating from single-family or multiple family dwellings.

(60) Residential unit.

“Residential unit” means a site occupied by a building which is zoned for residential occupation and whose occupants generate residential solid wastes.

(61) Reusability.

“Reusability” means the ability of a product or package to be used more than once in its same form.

(62) Re-use.

“Re-use” means the use, in the same form as it was produced, of a material which might otherwise be discarded.

(63) Rubber.

“Rubber” means an amorphous polymer of isoprene derived from natural latex of certain tropical plants or from petroleum.

(64) Salvage.

“Salvage” means the controlled removal of solid waste materials at a permitted solid waste facility for recycling, re-use, composting, or transformation.

(65) Seasonal.

“Seasonal” means those periods of time during the calendar year which are identifiable by distinct cyclical patterns of local climate, demography, trade or commerce.

(66) Sewage sludge.

“Sewage sludge” means residual solids and semi-solids resulting from the treatment of waste water, but does not include waste water effluent discharged from such treatment processes.

(67) Short-term planning period.

“Short-term planning period” means a period beginning in the year 1991 and ending in the year 1995.

(68) SIC Code.

“SIC Code” means the standards published in the U.S. Standard Industrial Classification Manual (1987), which is herein incorporated by reference.

(69) Sludge.

“Sludge” means residual solids and semi-solids resulting from the treatment of water, waste water, and/or other liquids. Sludge includes sewage sludge and sludge derived from industrial processes, but does not include effluent discharged from such treatment processes.

(70) Solid Waste Generation Study.

“Solid Waste Generation Study” means the study undertaken by a jurisdiction to characterize its solid waste stream and comply with all the requirements of Sections 18722, 18724, and 18726 of this chapter.

(71) Source Reduction and Recycling Element or SRR Element.

“Source Reduction and Recycling Element” or “SRR Element” means the source reduction and recycling element required pursuant to Public Resources Code Sections 41000 and 41300.

(72) Source separated.

“Source separated” describes the segregation, by the generator, of materials designated for separate collection for some form of materials recovery or special handling.

(73) Special waste.

“Special waste” means any hazardous waste listed in Section 66261.120 of title 22 of

the California Code of Regulations, or any waste which has been classified as a special waste pursuant to Section 66261.122 of title 22 of the California Code of Regulations, or which has been granted a variance for the purpose of storage, transportation, treatment, or disposal by the Department of Health Services pursuant to Section 66261.126 of title 22 of the California Code of Regulations. Special waste also includes any solid waste which, because of its source of generation, physical, chemical or biological characteristics or unique disposal practices, is specifically conditioned in a solid waste facilities permit for handling and/or disposal.

(74) Statistically representative.

“Statistically representative” means those representative and random samples of units that are taken from a population sample, pursuant to the procedures given in appendix 1 of Article 6.1 of this chapter. For the purposes of this definition, population sample includes, but is not limited to, a sample from a population of solid waste generation sites, solid waste facilities and recycling facilities, or a population of items of materials and solid wastes in a refuse vehicle load of solid waste.

(75) Tin can or tin container.

“Tin can” or “tin container” means any food or beverage container that is composed of steel with a tin coating.

(76) Ton.

“Ton” means a unit of weight in the U.S. Customary System of Measurement, an avoirdupois unit equal to 2,000 pounds. Also called short ton or net ton.

(77) Transformation facility.

“Transformation facility” means a facility whose principal function is to convert, combust, or otherwise process solid waste by incineration, pyrolysis, destructive distillation, or gasification, or to chemically or biologically process solid wastes, for the purpose of volume reduction, synthetic fuel production, or energy recovery. Transformation facility does not include a composting facility.

(78) Volume.

“Volume” means a three dimensional measurement of the capacity of a region of space or a container. Volume is commonly expressed in terms of cubic yards or cubic meters. Volume is not expressed in terms of mass or weight.

(79) Waste categories.

“Waste categories” means the grouping of solid wastes with similar properties into major solid waste classes, such as grouping together office, corrugated and newspaper as a paper waste category, as identified by the solid waste classification system contained in Section 18722 of Article 6.1 of this chapter, except where a component-specific

requirement provides alternative means of classification.

(80) Waste diversion.

“Waste diversion” means to divert solid waste, in accordance with all applicable federal, state and local requirements, from disposal at solid waste landfills or transformation facilities through source reduction, recycling or composting.

(81) Waste generator.

“Waste generator” means any person, as defined by Section 40170 of the Public Resources Code, whose act or process produces solid waste as defined in Public Resources Code Section 40191, or whose act first causes solid waste to become subject to regulation.

(82) Waste type.

“Waste type” means identified wastes having the features of a group or class of wastes which are distinguishable from any other waste type, as identified by the waste classification system contained in Section 18722 of Article 6.1 of this chapter, except where a component-specific requirement provides alternative means of classification.

(83) White goods.

“White goods” means discarded, enamel-coated major appliances, such as washing machines, clothes dryers, hot water heaters, stoves and refrigerators.

(84) Wood waste.

“Wood waste” means solid waste consisting of wood pieces or particles which are generated from the manufacturing or production of wood products, harvesting, processing or storage of raw wood materials, or construction and demolition activities.

(85) Yard waste.

“Yard waste” means any wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds.

Authority cited: *Sections 40502 and 41824, Public Resources Code.*

Reference: *Sections 41000, 41300 and 41823, Public Resources Code.*

Article 6.1. Solid Waste Generation Studies.

Section 18722. Solid Waste Generation Studies – General Requirements.

(a) Relation to Waste Characterization Component. For the purposes of this Chapter, a solid waste generation study constitutes the waste characterization component of the SRR Element required by Sections 41003, 41030, 41303 and 41330 of the Public

Resources Code.

Each jurisdiction shall prepare an initial solid waste generation study and all subsequent solid waste generation studies in accordance with the requirements of this Article. Additional specific requirements and guidelines for the initial solid waste generation study are defined in Section 18724 of this Article.

(b) Regional and Joint Solid Waste Generation Studies.

Solid waste generation studies may be conducted by an individual jurisdiction for solid waste generated within that jurisdiction, or jointly by two or more jurisdictions for the solid waste generated within the participating jurisdictions.

(c) Solid Waste Generation Data Projections. All solid waste generation studies shall include a 15-year projection of the solid waste to be generated within the jurisdiction, and diverted and disposed by the jurisdiction. The projected time period shall commence from the date of the local adoption of a SRR Element. The projection is to include the amounts, waste categories and waste types generated, diverted from disposal, and disposed, for each year of the 15-year period, under (1) the solid waste management system conditions and diversion activities existing at the time that the Solid Waste Generation study is prepared, and under (2) the solid waste management system conditions expected to be realized after a jurisdiction's implementation of its SRR Element and its attainment of the statutory diversion mandates.

(1) Acceptable information sources which may be used by the jurisdiction to determine and project changes in population, or in governmental, residential, industrial, and commercial operations, shall be the following:

(A) documented population data available from the California Department of Finance;

(B) documented employment data available from the California State Employment Development Department;

(C) documented industrial and commercial operations data available from the California Department of Commerce or from the California State Employment Development Department;

(D) documented data available in a local jurisdiction's adopted current General Plan;

(E) documented data available from published reports of local associations of governments and chambers of commerce;

(F) documented data available from the U.S. Census Bureau;

(G) documented jurisdiction-specific demographic, economic, and solid waste data developed and published by a jurisdiction in the course of the preparation of its solid waste generation study.

(d) Annual Report on Solid Waste Generation. The annual report on the implementation of the SRR Element, required pursuant to Section 41821 of the Public Resources Code, shall contain the jurisdiction's analysis of the need to revise its solid waste generation study, including the need to revise its data on the sources of generation, diversion and disposal, and its data on categories and types of solid waste generated, diverted and disposed.

(e) Uses of Solid Waste Generation Data. Data obtained from a solid waste generation study shall be used to determine the total quantity of solid waste generated within the jurisdiction, and diverted and disposed, for purposes of identifying the quantities and types of materials to be diverted from disposal pursuant to Sections 41780 and 41781 of the Public Resources Code.

(f) Measuring Solid Waste Quantity. In determining the aggregate quantity of solid waste generated, each jurisdiction shall use the following types of measurements: volume or weight. The conversion factors used to convert volume to weight, or weight to volume, shall be provided in the solid waste generation study and submitted to the Board in the SRR Element.

(1) Conversion Factors. The conversion factors used for measurement of the quantity of solid waste may be those from published sources and/or those derived from test measurements developed by a jurisdiction. A solid waste generation study shall cite all published sources of conversion factors used by a jurisdiction. For conversion factors derived from test measurements developed by a jurisdiction, a jurisdiction shall include in the solid waste generation study, a summary of the test measurement methods used. Conversion factors submitted by a jurisdiction are subject to approval by the Board at the time of the Board's consideration of approval of a jurisdiction's submitted SRR Element.

(A) By January 1, 1992, the Board shall complete a study and compile a list of acceptable conversion factors for each specific waste type listed in (j) of this Section.

(2) Generation. For solid wastes sampled or estimated to be produced at the sources of generation, e.g., residential units and commercial units, or at solid waste transfer stations, the quantity of solid wastes generated shall be reported in weight. Data collected in terms of volume shall be converted to weight.

(3) Diversion. For solid wastes which are diverted from transformation and disposal facilities, and which are sampled by means of a quantitative field analysis at recycling, composting and solid waste reduction facilities, the quantities of solid wastes which are diverted by means of recycling, composting or source reduction shall be reported in weight. Data collected in terms of volume shall be converted to weight.

For solid wastes which are diverted from transformation and disposal facilities, and which are not sampled by means of a quantitative field analysis but which are estimated from existing records to be diverted from transformation or disposal facilities, the quantities of solid waste which are diverted by means of recycling, composting or

source reduction shall be reported in weight. Data collected in terms of volume shall be converted to weight.

(4) Transformation and Disposal. For solid wastes sampled or estimated to be received at solid waste transformation facilities and solid waste disposal sites, the quantity of solid wastes disposed shall be reported in both volume and weight. For solid wastes disposed in permitted solid waste landfills the volume measurement shall be expressed in terms of in-place volume in the landfill, after compaction, as measured in a waste cell in the upper lift of a waste management unit excluding the volume of cover material in the cell. For the purposes of this Section, cell is defined in Section 17225.9, of title 14 of the California Code of Regulations. For the purposes of this Section, waste management unit is defined in Public Resources Code Section 43000(a).

(A) When solid waste volumes are recorded as uncompacted solid wastes or solid wastes compacted in refuse vehicles or solid waste transfer trailers, a jurisdiction shall state the conversion factors used to convert these volumes to in-place volumes in the landfill. A solid waste generation study shall cite all published sources of conversion factors for solid waste volumes used by a jurisdiction.

(5) Mixed Loads. If a refuse collection vehicle chosen for sampling has a mixed load of solid waste that is collected from more than one source of generation, or from more than one jurisdiction, a weight or volume fraction (i.e., the quantity) arising from each source of generation or jurisdiction along the collection route shall be estimated. This estimation shall be proportionally based on the number of residential, commercial and industrial units from the solid waste collection route sampled, and/or on the weight or volume of the contents of each refuse container which is sampled at the source(s) of generation. Where the number of units, or weight or volume of each refuse container, are determined by a jurisdiction to be unavailable, a jurisdiction may use population estimates to proportionally allocate the origins of solid wastes.

(6) Weight to be Used for Compliance with Diversion Standards. The total weight of solid waste generated by a jurisdiction and diverted from disposal shall be the standard by which the Board shall measure a jurisdiction's compliance with the statutory diversion requirements of Section 41780 of the Public Resources Code.

(g) Determination of Solid Waste Generation. The total solid waste generated by a jurisdiction shall be the sum of the total solid waste disposed, as quantified in the solid waste disposal characterization, plus the total solid waste diverted from permitted solid waste landfills and transformation facilities through any combination of existing source reduction, recycling, and composting programs, as quantified in the solid waste diversion characterization.

(1) The total quantity of solid waste disposed shall include only solid waste transformed or disposed in permitted solid waste transformation or disposal facilities. Solid wastes placed in illegal dumps or unpermitted landfills cannot be counted as a part of the total solid waste generated, for the purposes of the solid waste generation study.

(2) Expressed as an equation, the total solid waste generated by the jurisdiction shall be computed as follows:

$$\text{GEN} = \text{DISP} + \text{DIVERT}$$

where:

GEN = the total quantity of solid waste generated within the jurisdiction.

DISP = the total quantity of solid waste, generated within the jurisdiction, which is transformed

or disposed in permitted solid waste facilities.

DIVERT = the total quantity of solid waste, generated within the jurisdiction, which is diverted from permitted solid waste transformation and disposal facilities, through existing source reduction, recycling, and composting programs.

(h) Representative Sampling of Solid Waste. The solid waste generation study shall be performed in two (2) parts, consisting of:

(1) a representative determination of the composition and quantity of solid waste disposed within and by the jurisdiction, i.e., a waste disposal characterization, and,

(2) a representative determination of the composition and quantity of solid waste generated within the jurisdiction which is diverted from solid waste landfills and solid waste transformation facilities, i.e., a waste diversion characterization.

(A) A solid waste generation study shall be representative of all residential, commercial, industrial and other sources of waste generation in the jurisdiction. It shall also be representative of all solid waste source reduction, recycling, composting, transformation and disposal activities and facilities in the jurisdiction or used by the jurisdiction and its residents and businesses.

(i) Identification of Solid Waste Sources, Categories and Types. The solid waste generation study shall identify all significant sources of solid waste generated by a jurisdiction, identify all solid waste diversion programs and activities in a jurisdiction, all solid waste diversion facilities used by a jurisdiction which are either located in that jurisdiction or used by that jurisdiction, and identify all permitted solid waste transformation and disposal facilities used by a jurisdiction. The solid waste generation study shall identify solid wastes generated, diverted and disposed by volume and/or weight, according to the requirements of Section 18722(f) of this Article, and by waste category and waste type from the following sources of generation within the jurisdiction:

(A) residential

(B) commercial

(C) industrial

(D) other sources

The source of waste generation listed in (D) above and titled “other sources,” may be used by a jurisdiction to identify sources of solid waste generation which it determines are not categorized as residential, commercial, or industrial sources of waste generation. Some examples of “other sources” of solid waste generators are: state and national parks and recreation areas, and self-haul vehicles.

(1) Sampling Period. Solid waste diversion and disposal characterizations shall demonstrate the composition and quantity of solid wastes diverted and disposed by the jurisdiction during a continuous twelve month period subsequent to 1984, pursuant to the requirements set forth in Sections 18722(a) and (b) of this Article. Data collection is not required for each day of the sampling period.

(2) Seasonal Variations. A solid waste generation study shall quantify seasonal variations in solid waste generation.

A. For a jurisdiction which uses a quantitative field analysis for the initial solid waste generation study prepared for the SRR Element, only one sampling period (e.g., one week) is required for each of the seasons identified by a jurisdiction that occur within the 6-month sampling period chosen by a jurisdiction. Only that amount of waste which enables a jurisdiction to meet the requirements of Section 41780(a)(1) of the Public Resources Code needs to be sampled by a jurisdiction.

A jurisdiction may use existing data from its own jurisdiction or from a similar jurisdiction, as defined in Section 18724(c) of this Article, to determine the seasonal variation in the quantities and composition of solid wastes, and to determine the seasonal ratios of solid wastes generated, diverted and disposed, if the jurisdiction cannot obtain such data during its 6-month sampling period.

B. In subsequent solid waste generation studies prepared for revisions of SRR Elements, the data for a quantitative field analysis shall be collected with a frequency sufficient to sample the solid waste generated during all seasons identified by the jurisdiction, and in the amount needed to satisfy the requirements of Section 41780 of the Public Resources Code.

C. For all solid waste generation studies, data collection is not required for each day of the seasons identified. In each season identified by a jurisdiction, the frequency of sampling shall be sufficient to provide a representative characterization of solid wastes generated, diverted, and disposed in the amounts needed to satisfy the requirements of Section 41780 of the Public Resources Code. In subsequent solid waste generation studies, the frequency of sampling shall be statistically representative of the seasons sampled.

(3) Marine Wastes. A jurisdiction shall, in its solid waste generation study, identify all marine wastes generated in the jurisdiction and assign them to the waste categories

and waste types listed in (j) of this Section, or shall demonstrate that marine wastes generated within the jurisdiction have been accounted for within the commercial sources of solid waste generation.

(j) Solid Waste Categories and Types. A solid waste generation study shall identify solid waste generation, within a jurisdiction, by volume and weight, in accordance with the requirements of

(f) of this Section. A solid waste generation study shall identify solid waste generation within a jurisdiction by the following waste categories denoted by numerals 1 through 8, and the waste types which are identified by letter within each waste category:

(1) Paper:

(A) corrugated containers and brown paper bags

(B) mixed paper

(C) newspaper

(D) high grade ledger paper

(E) other paper

(2) Plastics:

(A) high-density polyethylene (HDPE) containers

(B) polyethylene terephthalate (PET) containers

(C) film plastics

(D) other plastics

(3) Glass:

(A) refillable glass beverage containers

(B) California Redemption Value glass

(C) other recyclable glass

(D) other non-recyclable glass

(4) Metals:

(A) aluminum cans

(B) bi-metal containers

- (C) ferrous metals and tin cans
- (D) non-ferrous metals including aluminum scrap
- (E) white goods
- (F) other metals
- (5) Yard Waste, including leaves, grass, and prunings
- (6) Other Organics:
 - (A) food waste
 - (B) tires and rubber products
 - (C) wood wastes
 - (D) agricultural crop residues
 - (E) manure
 - (F) textiles and leather
 - (G) other miscellaneous organics
- (7) Other Wastes:
 - (A) inert solids, including rock, concrete, brick, sand, soil, fines, asphalt, sheetrock
 - (B) household hazardous waste materials and discarded household hazardous waste materials containers
- (8) Special Wastes:
 - (A) ash
 - (B) sewage sludge
 - (C) industrial sludge
 - (D) asbestos
 - (E) auto shredder waste
 - (F) auto bodies

(G) other special wastes

A jurisdiction may add additional waste types to this list, but only if the quantities of these additional waste types are not duplicates of the reported quantities of the waste types given in the list above.

(k) Composite Solid Wastes. A jurisdiction shall, in the case of a composite solid waste material which is readily separable into individual components, estimate in a solid waste generation study the separate percent contribution, by volume or weight, of each identifiable and separable waste category and waste type in the composite solid waste material.

(l) Sampling Methodologies. Each jurisdiction shall use one or more of the methodologies listed in (1) through (4) of this subsection, to characterize the waste categories, waste types and quantities of the solid wastes generated within the jurisdiction and diverted or disposed in solid waste landfills or transformation facilities, using the waste categories and types given in Sections 18722(i) and (j) of this Article.

(1) Quantitative Field Analysis. The quantitative field analysis methodology shall be conducted using data which is collected in the field either from the sources of generation, from refuse collection vehicles or solid waste transfer vehicles; solid waste source reduction, recycling, and composting programs and facilities; and/or permitted solid waste transformation and disposal facilities.

For the purposes of this Section, quantitative field analysis consists of two steps: (1) the physical separation and sorting of residential, commercial, industrial or other solid wastes, and/or the visual survey of the composition of the solid wastes contained in self-haul vehicles, industrial solid wastes contained in debris boxes or other industrial solid waste containers, and (2) the physical measurement or accurate estimation and recording of the weight and/or volume of the solid wastes observed when performing step (1).

(2) Materials Flow Methodology. A materials flow methodology is one in which a jurisdiction estimates, using data on the quantities of specific commodities sold in the jurisdiction's marketplace, the quantity of solid wastes generated as a result of sales of those commodities. With this methodology, adjustments are to be made for (a) import and export of commodities to and from a jurisdiction, (b) commodity lifetime, and (c) other variables identified by a jurisdiction.

(3) Jurisdiction-Specific Data. This methodology is one in which a jurisdiction uses existing published data to estimate the amounts of solid wastes specific to its jurisdiction, e.g., data on demolition and construction wastes, sludges, automobile bodies, nonhazardous industrial wastes, incinerator residues, and other solid wastes which cannot be easily sampled or estimated by another methodology allowed by this Section.

(4) Existing Data from Comparable Jurisdictions. The comparable jurisdiction methodology is one by which the jurisdiction analyzes solid waste generated in the

jurisdiction by using existing solid waste composition data from another jurisdiction or jurisdictions in California, except as allowed in the following paragraphs of this subsection.

The use of out-of-state waste composition data is acceptable, provided that the jurisdiction submits with its solid waste generation study a statement of justification which satisfies its burden of proof of demonstrating the following:

1. The out-of-state data must be comparable to data available within California, and satisfy the requirements of subparagraphs (A), (B), and (C) of this Section;
2. The statutory and regulatory framework of the state from which the data is derived must be consistent with the California Integrated Waste Management Act of 1989, as amended, and its attendant regulations, such that it is evident that the framework has not significantly impacted the relative composition of the solid wastes disposed and diverted in that state.

As a part of demonstrating the data's comparability and legal consistency, a jurisdiction shall submit a complete copy of the following, at the time the jurisdiction submits its SRR Element for the Board's consideration:

- i). the waste characterization study and composition data it is using, and
- ii). the solid waste statutory and regulatory framework of the state from which the study and data originated.

For the purposes of this Section, out-of-state data refers only to data obtained from other states of the United States.

Except for the initial solid waste generation study, and as allowed by Section 18724(c) of this Article, data from another jurisdiction may be used to characterize the composition of solid waste generated only if all of the following criteria are met:

- (A) the jurisdiction's population is within plus or minus 10% of that of the jurisdiction conducting the solid waste generation study; and
- (B) the jurisdiction's total residential solid waste tonnage disposed is within plus or minus 10% of the total residential tonnage disposed by the jurisdiction conducting the solid waste generation study, or the jurisdiction's number of residential dwelling units is within plus or minus 10% of the number of residential units of the jurisdiction conducting the solid waste generation study; and
- (C) the jurisdiction's total commercial solid waste tonnage disposed is within plus or minus 10% of the total commercial tonnage disposed by the jurisdiction conducting the solid waste generation study, or the jurisdiction's number of commercial units is within plus or minus 10% of the number of commercial units of the jurisdiction conducting the solid waste generation study.

(m) Solid Wastes Countable Towards Diversion. For purposes of determining the quantity and types of solid wastes diverted, only those solid wastes which are normally disposed of at permitted solid waste landfills or permitted solid waste transformation facilities, and which are allowed to be counted toward the statutory diversion mandates pursuant to Sections 41781(a) and (b) of the Public Resources Code, as amended shall be included.

(n) Unacceptability of Double and Multiple Counting. A jurisdiction shall not double count or multiple count solid wastes that are diverted from disposal by recycling, composting and source reduction programs and facilities.

(o) Accuracy of Data. A jurisdiction shall, in compiling necessary data on the quantities and composition of solid wastes generated, diverted and disposed, develop a system of reporting procedures which will, as accurately as possible, quantify data reported from local governments, special districts, solid waste haulers, solid waste facility operators, scrap dealers, recycling facilities, recycling programs, and source reduction programs, for the purposes of the preparation of the SRRE, the Household Hazardous Waste Element, and the Countywide Siting Element. This system of reporting shall be separately outlined in the solid waste generation study when it is submitted to the Board.

Authority cited: *Sections 40502 and 41824, Public Resources Code.*

Reference: *Sections 41033, 41030, 41031, 41033, 41300, 41303, 41330, 41331, 41333, 41780, 41781 and 41821, Public Resources Code.*

Section 18724. Additional Requirements and Guidelines for the Initial Solid Waste Generation Study.

In addition to the general requirements in Section 18722 of this Article, the following requirements pertain to a jurisdiction's preparation of the initial solid waste generation study for the initial SRR Element.

(a) Initial Solid Waste Generation Study Submission Dates. Each city, which is not a city and county, shall submit the initial solid waste generation study, as a part of its SRR Element, to the county in which it is located by July 1, 1991, except as provided by Section 41000(b) of the Public Resources Code. Each county, and city and county, shall complete the initial solid waste generation study, as a part of its SRR Element, by July 1, 1991, except as provided by Section 41000(b) of the Public Resources Code.

(b) Regional and Joint Solid Waste Generation Studies. In addition to the methodologies given in Section 18722(l) of this Article, for the initial solid waste generation study, a jurisdiction may use data collected on an aggregate basis for a joint or regional study of which a jurisdiction is a part. For the purposes of this Section, data collected on an aggregate basis are data which are collected at solid waste facilities and recycling facilities which may not be readily disaggregated to a level in which an individual jurisdiction's solid waste generators, waste categories and/or waste types can be identified.

The aggregate data shall be disaggregated on a proportional basis, relative to the applicable demographic, economic, and residential, commercial and industrial characteristics of each jurisdiction participating in the regional or joint study. The initial solid waste generation study shall outline and describe how the proportional allocations of solid waste generated, diverted and disposed were determined and applied to the preparation of the solid waste generation study.

(c) Use of Pre-existing Solid Waste Generation Studies and Data. In addition to the methods given in Section 18722(l) of this Article, for the initial solid waste generation study, a jurisdiction may use pre-existing solid waste generation studies or data on solid waste composition that have been prepared, subsequent to 1984, by the Board and/or by jurisdictions in California or out-of-state which have similar demographic (e.g., dwelling unit size, family size), and economic (e.g., income, employment), or solid waste (e.g., waste composition, relative proportions of solid waste generators) characteristics.

The use of out-of-state waste composition data is acceptable, provided that the jurisdiction submits with its solid waste generation study a statement of justification which satisfies its burden of proof by demonstrating the following:

1. the out-of-state data must be comparable to data available within California, and satisfy the requirements of subsection (c) of this Section; and
2. the statutory and regulatory framework of the state from which the data is derived must be consistent with the California Integrated Waste Management Act of 1989, as amended, and its attendant regulations, such that it is evident that the framework has not significantly impacted the relative composition of the solid wastes disposed and diverted in that state.

As a part of demonstrating the data's comparability and legal consistency, a jurisdiction shall submit a complete copy of the following, at the time the jurisdiction submits its SRR Element for the Board's consideration:

- i) the waste characterization study and composition data it is using, and
- ii) the solid waste statutory and regulatory framework of the state from which the study and data originated.

For the purposes of this Section, out-of-state data refers only to data obtained from other states of the United States.

A jurisdiction using solid waste generation studies or data from the Board and/or another jurisdiction with similar demographic, economic and solid waste characteristics shall list and describe in its solid waste generation study all the major characteristics which are similar between the two jurisdictions relative to the study.

(d) Measuring Solid Waste Quantity for Diversion Mandates. If a jurisdiction chooses to count specific waste types towards its statutory diversion mandates, a jurisdiction shall identify those waste types in the initial solid waste generation study.

(e) Sampling Period - Field Study and Data Projection. If a quantitative field analysis and/or materials flow methodology, as described in Section 18722(l) of this Article, are used, data for the initial solid waste generation study shall be collected in the field during a continuous six month period subsequent to 1984 and prior to the adoption of the initial SRR Element by a jurisdiction. Based on the data collected during the 6-month field study, a jurisdiction shall project the types and quantities of solid waste generated, diverted and disposed for the following 6-month period. The field data and the projection, when combined, shall constitute the continuous 12-month study required by Section 18722(i)(1) of this Article.

(f) Sampling by Quantitative Field Analysis. If a quantitative field analysis for the initial solid waste generation study is selected for use by a jurisdiction, the quantitative field analysis may be conducted using the sampling procedures outlined in Appendix 1. "General Guidelines for Sampling When Performing a Quantitative Field Analysis for a Solid Waste Generation Study" (11/90).

(g) Aggregate Data. In the preparation of the initial solid waste generation study, jurisdictions jointly developing or collecting aggregate data on a county or regional basis shall use only that data related to the quantities of solid waste generated within that region, not data on quantities of solid waste generated within other regions.

Authority cited: *Sections 40502 and 41824, Public Resources Code.*

Reference: *Sections 41000, 41033, 41030, 41031, 41033, 41300, 41330, 41332, 41333, 41781 and 41823, Public Resources Code.*

Section 18726. Solid Waste Generation Studies for Revised SRR Elements.

In addition to the general requirements in Section 18722 of this Article, the following requirements pertain to a jurisdiction's preparation of solid waste generation studies for Revised SRR Elements.

(a) Individual Jurisdiction Responsibility. For all revisions of an SRR Element in which solid waste generation studies are conducted jointly by two or more jurisdictions, each participating jurisdiction shall be responsible for specifically measuring and identifying, in its SRR Element, the estimated quantity of solid waste generated within its jurisdiction which is disposed or diverted from disposal by source reduction, recycling or composting activities.

(b) Identification of Solid Waste Sources, categories and types. Solid Waste generation studies prepared for revisions of the SRR Element shall identify the quantities of solid waste generated the jurisdiction, by source, by waste category and waste type as listed in Sections 18722(i) and (j) of this Article. Data for each Solid Waste generation study submitted to the Board as a part of a revised SRR Element pursuant to revisions required by Article 7 of this Chapter shall have been collected during a continuous twelve month period.

(1) commencing no more than three years prior to the next Board submittal date for the SRR Element as required by Article 7 of this Chapter.

(c) Sampling by Quantitative Field Analysis. The quantitative field analysis for all Solid Waste generation studies for revised SRR Elements shall be conducted using the sampling procedures outlined in Appendix 1, "General Guidelines for Sampling When Performing a Quantitative Field Analysis for a Solid Waste Generation Study" (11/90), unless otherwise authorized by the Board.

(d) Requirement for Statistical Representation. Solid Waste generation studies for revised SRR Elements shall be statistically representative of the composition and quantity of solid waste generated, diverted and disposed by the jurisdiction. Statistical representation shall be established by use of the Guidelines given in Appendix 1 of this Article.

(e) Partial Solid Waste Generation Studies. If, upon review of the annual report submitted by a jurisdiction in compliance with Section 41821 of the Public Resources Code, the Board finds that the lack of accurate and/or sufficient information on solid waste quantities and solid waste composition has contributed to the inability of a jurisdiction to meet the goals and objectives cited in its adopted SRR Element, and/or to meet the statutory diversion mandates given in Section 41780 of the Public Resources Code, the Board may require a jurisdiction to prepare a partial solid waste generation study focused on particular sources of generation, and/or particular waste categories and waste types.

Authority cited: *Sections 40502 and 41824, Public Resources Code.*

Reference: *Sections 41032, 41033, 41330, 41331, 41332, 41333, 41781, 41821, 41822 and 41823, Public Resources Code.*

Appendix 1.

General Guidelines for Sampling When Performing a Quantitative Field Analysis for a Solid Waste Generation Study (CIWMB - November, 1990)

1. Sampling Solid Waste Generation, Diversion and Disposal - Perform these tasks in the following order:

a. Identify the Populations.

In each jurisdiction, identify: the populations of (1) residential units, commercial units, industrial sites, and other sites of solid waste generation; (2) facilities and programs which recycle, compost, or source reduce solid wastes; and (3) solid waste transfer stations, and permitted solid waste transformation facilities and solid waste disposal sites.

For the purposes of these guidelines, a population is the aggregate from which a sample is chosen, and refers to the aggregate number of solid waste generators, solid waste diversion facilities and programs, or solid waste transfer, transformation and disposal facilities identified by the jurisdiction.

b. Stratify the Populations (Optional Step).

Stratify each identified population into distinct subpopulations. The jurisdiction shall select the subpopulations. For example, to stratify the population for a solid waste diversion characterization, the jurisdiction could stratify the population of recycling facilities into the following subpopulations: drop-off centers, buy-back centers, and thrift shops. If the number of units in the subpopulation is small, the jurisdiction may choose not to stratify the population, and instead choose a sample from the population as a whole.

c. Random Sampling.

Assign a unique number to each identified unit of a population or subpopulation. Using a random numbers table or any other unbiased sampling method, choose the units to be sampled in the population or subpopulation, for each season identified by a jurisdiction. State the type(s) of unbiased sampling methods used in the solid waste generation study, when the study is submitted to the Board as a part of the SRR Element.

2. Sampling and Variability Determination: In order to determine the minimum number of samples to be taken from a population or subpopulation, a jurisdiction may use one of the following two methods:

(a) Klee and Carruth Method. Perform these tasks as follows:

(i) Sample, according to the requirements of Sections 18722, 18724 and 18726 of this Article, all of the solid waste generated, all of the solid waste diverted from disposal by recycling, composting or source reduction activities, and all of the solid waste transformed and disposed, for each identified population or subpopulation.

(ii) To determine the number of samples required for a statistically representative sampling from each population or subpopulation, the jurisdiction shall use the formula for normal approximation which is found in: A.J. Klee and D. Carruth, "Sample Weights in Solid Waste Composition Studies," American Society of Civil Engineers Journal of the Sanitary Engineering Division, volume 96 (SA4), pages 945-954, August 1970, which is incorporated by reference. A 90% confidence interval shall be used in this formula.

This formula is:

$$n = (ZS\delta)^2$$

A 90% confidence level shall be used in this formula. Thus at 90% confidence level, $z = 1.645$ and $s = 0.1632$, where z is the normal standard deviate (one-tailed) for the confidence level desired and s is the estimated standard deviation of the sample, transformed (arcsin) basis. A jurisdiction shall use these values for z and s in computing the minimum number of samples.

A jurisdiction shall select the confidence interval and confidence width to be used in computing the minimum number of samples, i.e., the jurisdiction shall determine the D (small delta) value to use in the formula.

In order to determine D, a jurisdiction shall estimate its percent waste composition (X) by use of existing published data (waste category, and waste type if available) about the jurisdiction. and/or published data on percent waste composition from other jurisdictions. The source of the value of X used in the solid waste generation study shall be stated in the solid waste generation study.

Next, a jurisdiction shall select a level of precision or sensitivity D) (large delta) (e.g., 1%, 2%, 3%) concomitant with its need for a given level of precision. with its population, and with the funds it has available for the solid waste generation study, as determined by the jurisdiction.

The waste category occurring in the highest percent in the selected waste stream shall be selected as the waste category for determining X and computing D.

(iii) All solid waste generation studies prepared using the Klee and Carruth Method for the purposes of meeting the requirements of the Integrated Waste Management Act of 1989, as amended, and otherwise approved by the Board, shall be considered to meet the requirements of this Article.

b. American Society of Testing Materials (ASTM) Method.

(i) Sample, according to the requirements of Sections 18722, 18724 and 18726 of this Article, all of the solid waste generated, all of the solid waste diverted from disposal by recycling, composting or source reduction activities, and all of the solid waste transformed and disposed, for each identified population or subpopulation in the jurisdiction.

(ii) A jurisdiction shall use Section 9 and Table D of Draft No. 4 of the proposed ASTM "Method for Determination of the Composition of Un processed Municipal Solid Waste," dated January 24, 1990, which is incorporated by reference. A jurisdiction may also use the values for s and x in Table C of this method, or may use values for s and x found in published solid waste characterization studies which were conducted in California subsequent to 1984. Other Sections of this Method may be used with Section 9 and Table D. Once a final version of this Method is adopted by ASTM, that Method shall become the approved method for compliance with this Article.

All solid waste generation studies prepared using the Draft ASTM Method for the purposes of meeting the requirements of the Integrated Waste Management Act of 1989, as amended, and otherwise approved by the Board, shall be considered to meet the requirements of this Article.

3. Sort and Identify. Sort and identify the solid wastes from each population and/or subpopulation, using the sources of waste generation listed in Section 18722(i) of this Article, and the waste categories and waste types listed in Section 18722(j) of this Article.

4. Assignment of Waste Category and Waste Type. Assign each identified solid waste material to one of the waste categories and waste types listed in Sections 18722(j) of

this Article, or to any additional waste types which a jurisdiction chooses to add to the list of waste types in Section (j) of this Article.

5. Volume or Weight Measurement. Measure the volume or weight of each solid waste material that has been identified.

6. Tabulate and Analyze Data - Perform these tasks in the following order. Tabulate and analyze all data compiled about the waste categories and waste types. As a part of the analysis, a jurisdiction shall compute (a) and (b) as follows:

a. Determination of Mean and Variability.

Compute the sample mean (\bar{x}) for volume or weight for each waste category and waste type identified.

Note, $\bar{x} = \sum x_i / n$, where x_i is a sample weight or volume and n is the total number of samples taken in the population or subpopulation sampled.

Next, compute the variance (s^2 ; i.e., where $s^2 = \sum (x_i - \bar{x})^2 / (n-1)$) and the standard deviation of the mean(s), for volume or weight measurement for each population and subpopulation, using the following formula:

$$s = \sqrt{\sum (x_i - \bar{x})^2 / (n-1)}$$

b. Set Confidence Levels for Sample Mean.

Set a 90% confidence level around the sample mean (\bar{x}), for each waste category and waste type identified.), for each waste category and waste type identified.

Use the formula:

$$\bar{x} \pm (n-1) t_{(n-1)} / \sqrt{n}$$

where t_{n-1} is the t value taken from the Student's t test values in [Table 1](#), and where $(n-1)$ is the degrees of freedom for the Student's t test for a 90% confidence level.

7. Data Analysis Adjustment. The data analysis conducted in steps 1 through 6 may be adjusted to include waste categories and waste types which:

(a) are known, by current written records held by the solid waste recycling, composting, source reduction, transformation or disposal facilities, to be disposed or diverted in a jurisdiction or in permitted solid waste facilities used by a jurisdiction, and

(b) may otherwise have been overlooked in the random sampling procedure.

Table 1: Solid Waste Generation Studies for Revised SRR Elements

Number of Sample (n)	Degrees of Freedom (n-1)	90% Confidence Level
2	1	6.314

Number of Sample (n)	Degrees of Freedom (n-1)	90% Confidence Level
3	2	2.920
4	3	2.353
5	4	2.132
6	5	2.015
7	6	1.943
8	7	1.895
9	8	1.860
10	9	1.833
11	10	1.812
12	11	1.796
13	12	1.782
14	13	1.771
15	14	1.761
16	15	1.753
17	16	1.746
18	17	1.740
19	18	1.734
20	19	1.729
21	20	1.725
22	21	1.721
23	22	1.717
24	23	1.714
25	24	1.711
26	25	1.708
27	26	1.706
28	27	1.703
29	28	1.701
30	29	1.699
31	30	1.697
36	35	1.690
41	40	1.684
46	45	1.679
51	50	1.676
61	60	1.671
71	70	1.667
81	80	1.664
91	90	1.662
101	100	1.660
121	120	1.658
141	140	1.556
161	160	1.654
189	188	1.653
210	200	1.653
∞	∞	1.645

Authority cited: Sections 40502 and 41824, Public Resources Code.
Reference: Sections 41030, 41031, 41032, 41033, 41330, 41331, 41332, 41333, 41780, 41781, Public Resources Code.

Section 18726.1. Calculation of Maximum Disposal Tonnage. [Repealed]

Section 18726.2. Calculation of Minimum Diversion Tonnage. [Repealed]

Article 6.2. Source Reduction and Recycling Elements

Section 18730. Scope.

(a) The Source Reduction and Recycling Element (SRRE) shall specify the means by which each jurisdiction required to prepare and implement a SRRE shall achieve the diversion mandates required by Public Resources Code Section 41780 and 41780.1.

(b) The SRRE shall include items identified in chapter 9, Article 6.1, Sections 18722 through 18726, and Sections 18731 through 18748 of this Article, as applicable.

(c) Unless otherwise specified, this Article pertains to initial and subsequent SRREs.

(d) For the purpose of this Article, a jurisdiction is a city, county, city and county or a regional agency.

(e) For the purpose of this Article, programs which may be considered as funded or operated by a jurisdiction or local governing body are identified in Public Resources Code Section 41781.2(b)(1).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40052, 40057, 40970-40975, 41000, 41300, 41780, 41780.1 and 41781.2, Public Resources Code.*

Section 18731. Goals and Objectives.

The SRRE shall include statements which define the goals and objectives for the short-term and medium-term planning periods.

(a) SRRE goals shall be consistent with the mandates of Section 40051 of the Public Resources Code.

(b) SRRE objectives shall identify the amount of solid waste which the jurisdiction plans to divert from disposal at facilities to comply with the diversion requirements of Public Resources Code Sections 41780 and 41780.1 through each of the component programs described in Sections 18733 through 18748 of this Article.

(c) SRRE objectives shall specify the time frame for achievement of each objective.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40051, 40052, 40900(c), 41001, 41301, 41780, 41780.1 and*

41781.2, *Public Resources Code*.

Section 17832. Solid Waste Generation Analysis.

Each jurisdiction preparing a SRRE shall prepare a solid waste generation analysis based upon the information developed in Article 6.1 of this Chapter. The analysis shall include, but not be limited to, the following:

(a) For the initial SRRE, include a list, by specific waste categories, as denoted in Section 18722, of Article 6.1 of this chapter, of the quantities of materials currently diverted from disposal, and the materials identified as being currently disposed according to the Waste Generation Study conducted by the jurisdiction.

(b) A list of the waste materials currently disposed in the jurisdiction which could potentially be diverted from disposal by use of the diversion programs described in Sections 18733 through 18740, of this Article.

(c) A list of the waste materials currently disposed in the jurisdiction which cannot be diverted from disposal by diversion programs including, but not limited to, those described in Sections 18733 through 18740 of this Article and a discussion of why these waste materials cannot be diverted from disposal.

Authority cited: *Section 40502, Public Resources Code*.

Reference: *Sections 40030, 41051, 41071, 41201, 41330, 41351, 41371 and 41401, Public Resources Code*.

Section 18733. Model Component Format.

(a) The model component format, described in Sections 18733.1 through 18733.6 of this Article, shall be used in the preparation of each of the following individual components of the SRRE:

(1) Source Reduction Component

(2) Recycling Component

(3) Composting Component

(4) Special Waste Component

(b) Additional requirements contained in Sections 18734 through 18737.2 of this Article, shall be included in the preparation of the components, listed in Section 18733(a) of this Article, in accordance with the model component format.

Authority cited: *Section 40502, Public Resources Code*.

Reference: *Sections 41330 and 41303, Public Resources Code*.

Section 18733.1. Component Objectives.

(a) Each component shall state the specific objectives to be accomplished during the short-term and medium-term planning periods. The initial SRRE component objectives shall be based upon the results of the Solid Waste Generation Analysis required by Section 18732 of this Article and other local considerations which may be necessary to accomplish integrated waste management.

(b) For the initial SRRE, each jurisdiction shall identify specific waste categories or waste types, as found in the Solid Waste Generation Study conducted pursuant to Section 18722, of Article 6.1 of this chapter, as priorities for waste diversion based on analysis of solid waste generation in terms of criteria which may include, but are not limited to, the following:

(1) volume of the solid waste;

(2) weight of the solid waste;

(3) hazard of the solid waste; and

(4) material, products or packages, contributing to the waste category or waste type, that are made of non-renewable resources.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41504, 41071, 41201, 41351, 41371 and 41401, Public Resources Code.*

Section 18733.2. Existing Conditions Description.

(a) As applicable, each component, listed in Section 18733(a) of this Article, shall include a description of the existing diversion alternatives for each component program in the jurisdiction. The description shall include, but not be limited to, the following:

(1) a brief description of each existing diversion alternative implemented in the jurisdiction; and

(2) the quantity of waste diverted, listed by waste category and waste type where applicable as follows:

(A) for the initial SRRE identify the quantity of waste diverted for each existing diversion alternative. Waste quantities shall be specified by volume, expressed in cubic yards, or by weight, expressed in tons;

(B) for a subsequent SRRE, quantify each existing diversion alternative which involves recycling or composting programs that are operated or funded by a jurisdiction. Waste quantities shall be specified by weight, expressed in tons or volume, expressed in cubic yards.

(3) an identification and description of the existing diversion alternatives within the

jurisdiction that will be decreased in scope, phased out or closed during the short-term and medium-term planning periods. The description shall include a discussion of the effects of such closure on existing solid waste management activities within the jurisdiction and its impact on the attainment of the solid waste diversion mandates specified in Sections 41780 and 41780.1, Public Resources Code.

(b) The information provided in this Section shall be used to:

(1) account for existing diversion amounts when calculating baseyear solid waste generation rates in the initial SRRE.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40901, 41031, 41333, 41780, 41780.1 and 41780.2, Public Resources Code.*

Section 18733.3 Evaluation of Alternatives.

Each component shall include an evaluation of diversion alternatives which have been considered for local implementation for the purpose of achieving the objectives required in Section 18733.1, of this Article.

(a) Each alternative considered shall be evaluated in terms of the following criteria and any other local considerations:

(1) effectiveness in reducing either solid waste volume, weight, percentage in weight or its volumetric equivalent;

(2) hazard created by the alternative considered;

(3) ability to accommodate changing economic, technological, and social conditions;

(4) consequences of the diversion alternative on the characterized waste, such as shifting solid waste generation from one type of solid waste to another;

(5) whether it can be implemented in the short-term and medium-term planning periods; and

(6) the need for expanding existing facilities or building new facilities to support implementation of the alternative.

(b) In addition, the evaluation shall include, but not be limited to, the following:

(1) a discussion of the consistency of each alternative with applicable local policies, plans, and ordinances based upon local conditions;

(2) a discussion of any institutional barriers to local implementation of each alternative;

(3) an estimate of the costs related to the implementation of each alternative being evaluated for the short-term and medium-term planning periods; and

(4) a discussion of the availability of local, regional, state, national, and international end-uses for the materials which would be diverted through implementation of each alternative being considered.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41053, 41073, 41203, 41250, 41260, 41353, 41373, 41403, 41450, 41460, 41780 and 41780.1, Public Resources Code.*

Section 18733.4. Selection of Programs.

(a) Each component shall identify and describe the diversion alternatives selected, including existing diversion alternatives, expansions of existing diversion alternatives, and new diversion alternatives, which will be implemented to meet the objectives of the component and meet the solid waste diversion requirements specified in Public Resources Code, Section 41780 and 41780.1. This selection shall be based upon the evaluations conducted pursuant to Section 18733.3 of this Article. The program description shall include, but not be limited to, the following:

(1) a discussion of each diversion alternative selected for the program identifying why the alternative was selected for implementation. For the initial SRRE this discussion shall be based upon the data compiled in the solid waste generation study conducted pursuant to Article 6.1, of this chapter, information contained in the solid waste generation analysis required by Section 18732 of this Article; and the evaluation conducted pursuant to Section 18733.3 of this Article.

(2) an estimate of the anticipated quantities of solid wastes to be diverted from solid waste disposal, by diversion program and waste type, for the short-term and medium-term planning periods. Solid waste quantities shall be estimated either by volume, expressed in cubic yards, or by weight, expressed in tons. Each component shall state the anticipated percentage of contribution of the selected program towards the diversion mandates required by Section 41780 and 41780.1 of the Public Resources Code;

(3) as applicable to the component, a listing of the anticipated local, regional, state, national, and/or international end-uses for diverted materials based upon the evaluation of the diversion alternative required by Section 18733.3(b)(4) of this Article;

(4) as applicable to the component, a description of the proposed methods for handling and disposal which may be necessary to implement the selected program; and

(5) a description of any facilities to be utilized for the implementation of the program which Section 18733.3 of this Article has shown must be expanded or built to support implementation of the selected program.

(b) Each diversion alternative which involves waste type "sludge" shall, in addition to the criteria set forth in subsections (a)(1) and (a)(2) of this Section, be subject to a finding by the Board as described in Article 7.0 Section 18775.2.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41050-41053, 41070-41075, 41200-41204, 41250, 41260, 41350-41353, 41370-41375, 41400-41404, 41450, 41460, 41480, 41780 and 41780.1, Public Resources Code.*

Section 18733.5. Program Implementation.

Each component shall contain a program implementation description which includes, but is not limited to, the following:

- (a) identification of government agencies and divisions thereof, organizations, and/or persons responsible for implementation of the selected program;
- (b) identification of the tasks necessary to implement the selected program;
- (c) identification of a short-term and medium-term planning period implementation schedule addressing each task identified in (b) of this Section.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41050, 41070, 41200, 41250, 41260, 41350, 41370, 41400, 41450 and 41780, Public Resources Code.*

Section 18733.6. Monitoring and Evaluation.

(a) Each jurisdiction shall use one or more of the following methods to monitor and evaluate diversion programs being implemented:

- (1) for the initial SRRE, a Waste Generation Study consistent with the waste generation study prepared under Section 18722, of Article 6.1 of this Chapter;
- (2) targeted solid waste characterization studies involving recycling, composting, transformation, and solid waste landfill facilities to measure changes in the volume, or weight of specific materials;
- (3) an assessment of any changes in the design, production, distribution, sale, or use of selected products and packages which affect solid waste generation; or
- (4) another method for which prior written approval has been given by the Board.

(b) Each jurisdiction shall provide the following information based upon the specific monitoring and evaluation methods selected for each recycling and composting program that is operated or funded by a jurisdiction:

- (1) written criteria for evaluating the program's effectiveness;
- (2) identification of agencies or divisions thereof, organizations, or persons responsible for the program's monitoring, evaluation, and reporting;
- (3) identification of measures to be implemented if monitoring shows a shortfall in the attainment of solid waste diversion objectives of the component or a shortfall in the

attainment of the diversion mandates specified in Public Resources Code, Sections 41780 and 41780.1. Such measures may include, but are not limited to, provisions for:

- (A) increasing the frequency of program monitoring and review, or,
- (B) modification of the objectives or diversion alternatives adopted in each component program.
- (c) Each recycling or composting component program that is operated or funded by a jurisdiction shall contain an explanation of how the program is to be monitored and evaluated during its implementation. A jurisdiction shall identify the methods to quantify and monitor achievement of the objectives, including but not limited to, diversion from solid waste landfills and transformation facilities and reduction of waste hazards. Actual solid waste diversion shall be quantified in cubic yards, or in tons, and as a percentage of the total solid waste generation of the jurisdiction.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 40901, 41052, 41072, 41202, 41250, 41260, 41352, 41372, 41402, 41450, 41460, 41780 and 41780.1, Public Resources Code.*

Section 18734. Source Reduction Component Specific Requirements.

The Source Reduction Component shall include the requirements contained in Sections 18733.1 through 18734.3 of this Article.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 41050 and 41350, Public Resources Code.*

Section 18734.1. Source Reduction Component Objectives.

- (a) Each jurisdiction shall examine and select source reduction program objectives which meet the goal of minimizing the quantity of solid waste disposed including, but not limited to, the following:
 - (1) reducing the use of non-recyclable materials;
 - (2) replacing disposable materials and products with reusable materials and products;
 - (3) reducing packaging;
 - (4) reducing the amount of yard wastes generated;
 - (5) purchasing repairable products; and,
 - (6) increasing the efficiency of the use of paper, cardboard, glass, metal, and other materials by reducing wastes from non-residential generators' production operations, processes, and equipment and considering durability, reusability, and recyclability as product selection criteria.

(b) Each jurisdiction shall identify specific waste types (materials, products, and packaging) to be targeted for the source reduction objectives, based upon criteria, which include, but are not limited to, the following:

(1) the potential to extend the useful life of affected materials, products, or packaging; and

(2) whether the waste type has limited recyclability.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41050-41504 and 41350-41354, Public Resources Code.*

Section 18734.2. Source Reduction Component Existing Conditions Description.

a) The description of existing conditions shall identify the source reduction activities currently being performed by public and private entities including, but not limited to governmental, commercial, and industrial entities;

(b) For the initial SRRE, quantification of current source reductions achieved through existing programs within the jurisdiction shall meet the following criteria:

(1) the methodology, assumptions, and results shall be described, documented, and verified; and,

(2) the jurisdiction shall use the best readily available and applicable data, which may include direct observations and measurements of source reduction and the results of monitoring programs similar to those identified in Section 18733.6 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41050, 41053, 41350 and 41353, Public Resources Code.*

Section 18734.3. Evaluation of Source Reduction Program Alternatives.

Each jurisdiction shall consider source reduction program alternatives including, but not limited to, the following:

(a) Rate structure modifications, which may include, but are not limited to:

(1) local waste disposal fee modifications;

(2) quantity-based local user fees, which may include, but are not limited to, variable can rates for garbage collection services, such as fees based on the number of containers set out for collection;

(b) Creation of other economic incentives, which may include, but are not limited to:

(1) loans, grants, and loan guarantees;

(2) deposits, refunds, and rebates; and

(3) reduced business license fees;

(c) Technical assistance or instructional and promotional alternatives, which may include, but are not limited to:

(1) waste evaluations;

(2) the establishment of compost programs which assist generators to compost at the site of generation;

(3) technical assistance to industry and consumer organizations, and to source reduction businesses;

(4) educational efforts, such as consumer awareness programs, school curricula development, seminars, and public forums;

(5) awards and other types of public recognition for source reduction activities; and

(6) non-procurement source reduction programs, such as education of employees, office changes to increase the use of scrap paper, increased use of electronic mail, and increased double-sided copying.

(d) Regulatory programs, which may include, but are not limited to:

(1) local adoption of ordinances that specify that one or more of the following criteria be considered in the procurement selection of products and packaging by the jurisdiction:

(A) durability

(B) recyclability

(C) reusability

(D) recycled material content

(2) local establishment of incentives and disincentives to land-use development that promote source reduction;

(3) locally established requirements of waste reduction planning and reporting by waste generators or manufacturers;

(4) local adoption of bans on products and packaging to the extent the following can be demonstrated:

(A) the ban will result in reduction in waste at the source, rather than substitution by another product or package of equivalent or greater volume; and

(B) the ban will result in a net environmental benefit.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41050-41054 and 41350-41354, Public Resources Code.*

Section 18735. Recycling Component Specific Requirements.

The Recycling Component shall include the requirements contained in Sections 18733.1 through 18733.6 and 18735.1 through 18735.5 of this Article.

Authority cited: Section 40502, Public Resources Code. Reference: Sections 41070 and 41370, Public Resources Code.

Section 18735.1. Recycling Components Objectives.

A statement of market development objectives to be achieved in the short-term and medium-term planning periods shall be included in the goals and objectives Section of the recycling component, as required by Sections 41074 and 41374 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41070-41074 and 41370-41374, Public Resources Code*

Section 18735.2. Recycling Component Program Existing Conditions Description.

(a) The description of existing conditions shall identify the source reduction activities currently being performed by public and private entities including, but not limited to governmental, commercial, and industrial entities;

(b) For the initial SRRE, quantification of current source reductions achieved through existing programs within the jurisdiction shall meet the following criteria:

(1) the methodology, assumptions, and results shall be described, documented, and verified; and,

(2) the jurisdiction shall use the best readily available and applicable data, which may include direct observations and measurements of source reduction and the results of monitoring programs similar to those identified in Section 18733.6 of this Article.

Authority cited: Section 40502, Public Resources Code. Reference: Sections 41070 and 41370, Public Resources Code.

Section 18735.3. Evaluation of Recycling Program Alternatives.

Each jurisdiction shall analyze the recycling diversion alternatives affecting residential, commercial, and industrial wastes. The analysis shall take into account existing recycling programs and their possible expansion in addition to the areas of concern specified in Section 18733.3 of this Article.

(a) The alternatives shall include, but not be limited to, the following methods for

accomplishing separation of the recyclable materials from the waste stream:

(1) separation of recyclable materials at the source of generation, including curbside and mobile collection systems;

(2) drop-off recycling centers;

(3) buy-back recycling centers;

(4) manual material recovery operations;

(5) mechanized material recovery operations that produce a product which has a market; and

(6) salvage at solid waste facilities.

(b) The jurisdiction shall consider changing zoning and building code practices to encourage recycling of solid wastes, such as, rezoning to allow siting of a drop-off recycling center in residential neighborhoods or revising building codes to require adequate space be allotted in new construction for interim storage of source-separated materials.

(c) The jurisdiction shall consider changing existing rate structures to encourage recycling of solid wastes.

(d) The jurisdiction shall consider the methods which it will use to increase the markets for recycled materials, including, but not limited to, changing governmental procurement programs to promote market development by giving purchase preferences to recycled products or otherwise specifying their use.

(e) The jurisdiction shall encourage handling methods which preserve the integrity of recovered materials so that they remain usable raw materials for manufacturers of recycled content products. For this purpose, the jurisdiction shall consider the extent to which separation of recyclable materials from waste can be performed as close to the point of generation as possible.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41050-41054 and 41050- 41354, Public Resources Code*

Section 18735.4. Selection of Recycling Program.

(a) The recycling component shall identify the end markets or end users which will be secured during the short-term period, for the materials collected. In the event that such markets cannot be identified, the component shall describe the methods by which the jurisdiction will secure the necessary markets.

(1) The identification of markets may be described in general terms.

(2) Planned development of markets at manufacturing facilities in the jurisdiction shall

also be described.

(b) The Recycling Component shall describe the measures to be taken if uneconomical market conditions or other unfavorable conditions occur which are beyond the jurisdiction's control and which would prevent the jurisdiction from satisfying the requirements of Sections 41780 and 41780.1 of the Public Resource Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41074, 41374, 41780 and 41780.1, Public Resources Code*

Section 18735.5. Recycling Program Implementation.

The recycling program shall denote actions planned to deter unauthorized removal of recyclable materials which would adversely affect the recycling program's effectiveness.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41070 and 41370, Public Resources Code*

Section 18736. Composting Component Specific Requirements.

The Composting Component shall include the requirements contained in Sections 18733.1 through 18733.6 and 18736.1 through 18736.4 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41200 and 41400, Public Resources Code*

Section 18736.1. Composting Component Objectives.

A statement of market development objectives to be achieved in the short-term and medium-term planning periods shall be provided in the Composting Component, as required by Sections 41204 and 41404 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41200, 41204, 41400 and 41404, Public Resources Code*

Section 18736.2. Composting Component Program Existing Conditions Description.

The description of the existing composting program shall include, but not be limited to, a description of existing local market development activities, including any government procurement programs, economic development activities, or consumer incentives conducted within the jurisdiction.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41200, and 41400, Public Resources Code*

Section 18736.3. Evaluation of Composting Program Alternatives.

(a) Composting program alternatives that qualify toward achievement of the diversion mandates specified in Sections 41780 and 41780.1 of the Public Resources Code shall

include only those alternatives whose products result from the controlled biological decomposition of organic wastes that are source separated from the municipal solid waste stream or separated at a centralized waste processing facility.

(b) Composting alternatives do not include composting of solid waste at the site of generation by the generator, since such an alternative constitutes a source reduction method.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41201, 41202, 41401, 41402, 41780 and 41780.1, Public Resources Code*

Section 18736.4. Selection of Composting Program.

(a) The Composting Component shall identify the end markets or end use which will be secured during the short-term period for the materials composted, using the selected program. In the event that such markets cannot be firmly identified, the component shall describe the methods by which the jurisdiction will secure the necessary markets. The identification of markets may be described in general terms. Planned development of markets at manufacturing facilities in the jurisdiction shall also be described.

(b) The Composting Component shall describe the measures to be taken if uneconomical market conditions occur beyond the jurisdiction's control, which would prevent the jurisdiction from satisfying the requirements of Sections 41780 and 41780.1 of the Public Resource Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41200, 41204, 41400, 41404, 41780 and 41780.1, Public Resources Code*

Section 18737. Special Waste Component.

The Special Waste Component shall include the requirements contained in Sections 18733.1 through 18733.6 and 18737.1 and 18737.2 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41250 and 41450, Public Resources Code*

Section 18737.1 Special Waste Component Objectives.

For the initial SRRE each jurisdiction shall examine and select Special Waste Component objectives based upon data generated in the Solid Waste Generation Study, conducted pursuant to Section 18722, of Article 6.1 of this chapter. The objectives shall include a plan to reduce the hazard potential of special wastes by waste type.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900(c), 41250 and 41450, Public Resources Code*

Section 18737.2. Special Waste Existing Conditions Description.

(a) The description of the existing special waste program shall include, but not be limited to, a description of existing solid waste facilities which are permitted to handle or dispose of special wastes. Where applicable, the description shall include a discussion of other regulatory agency requirements, permits, or other documents associated with the operation of these facilities.

(1) regulatory agencies include, but are not limited to, regional water quality control boards, air quality management districts, and the Department of Toxics Substances Control.

(b) For the initial SRRE the jurisdiction shall provide a discussion on those special wastes identified in the Waste Generation Study conducted pursuant to Section 18722, of Article 6.1 of this Chapter for which there is currently no permitted handling or disposal method within the jurisdiction.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41250 and 41450, Public Resources Code*

Section 18738. Household Hazardous Waste Component Specific Requirements. [Repealed]

Section 18738.1. Household Hazardous Waste Component Objectives. [Repealed]

Section 18738.2. Household Hazardous Waste Existing Conditions Description. [Repealed]

Section 18738.3. Evaluation of Household Hazardous Waste Program Alternatives. [Repealed]

Section 18738.4. Selection of Household Hazardous Waste Program. [Repealed]

Section 18738.5. Implementation of Household Hazardous Waste Programs. [Repealed]

Section 18740. Education and Public Information Component.

(a) Component objectives. The Education and Public Information Component shall include a statement of educational and informational objectives for the short-term and medium-term planning periods.

(b) Existing program description. The component shall include a description of all existing educational and public information programs and activities within the jurisdiction which promote source reduction, recycling, composting, and the safe handling and disposal of solid waste.

(c) Selection of program alternatives. For the initial SRRE the component shall incorporate data compiled in the solid waste generation study conducted pursuant to Article 6.1 and the solid waste generation analysis of Section 18732 of this Article to

identify solid waste generators that will be targeted in educational and public information programs.

(d) Program implementation. The component shall include a program implementation discussion which:

(1) identifies those agencies or divisions thereof, organizations, and/or persons responsible for implementation;

(2) identifies required implementation tasks;

(3) establishes short-term and medium-term implementation schedules for tasks;

(e) Monitoring and evaluation. For each education and public information component program which involves recycling or composting programs that are operated or funded by a jurisdiction, the component shall:

(1) identify the methods to be used to measure achievement of the education and public information objectives identified pursuant to Section (a), above;

(2) establish written criteria by which to evaluate program effectiveness;

(3) identify agencies or divisions thereof, organizations, and/or persons responsible for program monitoring, evaluation, and reporting;

(4) identify measures to be implemented if monitoring performed pursuant to Section 18733.6(a) of this Article shows a shortfall in the attainment of the solid waste diversion objectives; and

(5) establish a program monitoring and reporting schedule.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40901, 41220 and 41420, Public Resources Code.*

Section 18744. Facility Capacity Component.

(a) For the initial SRRE the Solid Waste Facility Capacity Component shall identify and describe all existing permitted solid waste landfills and transformation facilities within the jurisdiction. This description shall contain the following:

(1) identification of the owner and operator of each permitted solid waste disposal facility;

(2) quantity and waste types of solid waste disposed;

(3) permitted site acreage;

(4) permitted capacity;

(5) current disposal fees; and

(6) for solid waste landfills, remaining facility capacity in cubic yards and years.

(b) The Solid Waste Facility Capacity Component shall include a solid waste disposal facility needs projection which estimates the additional disposal capacity, in cubic yards per year, needed to accommodate anticipated solid waste generation within the jurisdiction for a 15-year period commencing in 1991.

(1) The solid waste disposal capacity needs projection for the initial SRRE shall be calculated based upon the solid waste generation projection conducted in accordance with Section 18722, of Article 6.1 of this Chapter.

(2) The disposal capacity needs projection for the 15 year period shall be calculated using the following equation:

$$\text{ADDITIONAL CAPACITY}_{\text{Year } n} = [(G + I) - (D + TC + LF + E)]_{\text{Year } n}$$

where:

G = The amount of solid waste projected to be generated in the jurisdiction;

I = The amount of solid waste which is expected to be imported to the jurisdiction for disposal in permitted solid waste disposal facilities through interjurisdictional agreement(s) with other cities or counties, or through agreements with solid waste enterprises, as defined in Section 40193 of the Public Resources Code.

D = The amount diverted through successful implementation of proposed source reduction, recycling, and composting programs.

TC = The amount of volume reduction occurring through available, permitted transformation facilities.

LF = The amount of permitted solid waste disposal capacity which is available for disposal in the jurisdiction, of solid waste generated in the jurisdiction.

E = The amount of solid waste generated in the jurisdiction which is exported to solid waste disposal facilities through interjurisdictional agreement(s) with other cities, counties or states, or through agreements with solid waste enterprises, as defined in Section 40193 of the Public Resources Code.

n = each year of a 15 year period commencing in 1991. [iterative in one year increments]

(c) The Solid Waste Facility Capacity Component shall include discussions of:

(1) The solid waste disposal facilities within the jurisdiction which will be phased out or closed during the short-term and medium-term planning periods and the anticipated

effect from such phase-out or closure on disposal capacity needs of the jurisdiction.

(2) Plans to establish new or expanded facilities for the short-term and medium-term planning periods and the projected additional capacity of each new or expanded facility.

(3) Plans to export waste to another jurisdiction for the short-term and medium-term planning periods and the projected additional capacity of proposed export agreements.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41260, 41460 and 41821, Public Resources Code.*

Section 18746. Funding Component.

(a) The Funding Component shall demonstrate that there is sufficient funding and allocation of resources for:

(1) program planning and development;

(2) implementation of programs in order to comply with the requirements of Sections 41780 and 41780.1 of the Public Resources Code.

(b) The Funding Component shall provide cost estimates for component programs scheduled for implementation in the short-term planning period.

(1) The Funding Component shall identify revenue sources sufficient to support the component programs.

(2) The Funding Component shall identify sources of contingency funding for component programs.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41230, 41430, 41780 and 41780.1, Public Resources Code.*

Section 18748. Integration Component.

(a) The Integration Component shall explain how the Source Reduction, Recycling, Composting, and Special Waste components combine to achieve the 25 and 50 percent mandates specified in Public Resources Code Sections 41780 and 41780.1. The Integration component shall include, but is not limited to, the following:

(1) a description of the solid waste management practices which fulfill the legislative goals of promoting integrated solid waste management in the following order of priority:

(A) source reduction;

(B) recycling and composting; and

(C) environmentally safe transformation and environmentally safe land disposal of solid wastes;

(2) an explanation of how the jurisdiction has integrated the components to maximize the use of all feasible source reduction, recycling and composting options;

(3) an explanation of how the components jointly achieve the diversion mandates in Sections 41780 and 41780.1 of the Public Resources Code;

(4) an explanation of how priorities between components were determined, and

(5) an explanation of whether the jurisdiction has been designated, or plans to apply for designation, as a California Integrated Waste Management Board Recycling Market Development Zone.

(b) An integrated schedule shall be submitted in the Integration Component which shall include the following:

(1) a calendar scheduling all implementation tasks for new and expanded programs, commencing after the effective date of the Integrated Waste Management Act of 1989 through the short-term planning period, as identified in the components specified in Sections 18733(a) and 18740 of this Article. The schedule shall include a short descriptive title for each task, the entity implementing the task, the task start date and milestone dates, and a schedule for funding source availability.

(A) implementation tasks are those tasks in each component which satisfy the requirements of Sections 18733.5(b) and 18740(d) of this Article.

(2) the schedule shall also show the anticipated date of achievement of the solid waste diversion mandates specified in Sections 41780 and 41780.1, Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40051, 40052, 41001, 41002, 41301, 41302, 41780, 41780.1, Public Resources Code.*

Article 6.3. Household Hazardous Waste Elements

Section 18750. Scope.

The Household Hazardous Waste (HHW) Element shall specify the means by which each jurisdiction required to prepare and implement a HHW Element shall safely collect, recycle, treat and dispose of household hazardous wastes generated by households within the jurisdiction.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500 and 41510, Public Resources Code.*

Section 18751. Household Hazardous Waste Element Specific Requirements.

The Household Hazardous Waste Element shall include the requirements contained in Sections 18751.1 through 18751.6 of this Article.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 41500 and 41510, Public Resources Code.*

Section 18751.1. Household Hazardous Waste Element Goals and Objectives.

The HHW Element shall include statements which define the goals and objectives for the short-term and medium-term planning periods.

(a) HHW Element goals and objectives shall be consistent with the mandates of Section 40051 of the Public Resources Code.

(b) Each jurisdiction shall examine and select household hazardous waste element goals and objectives based upon data generated in the Solid Waste Generation Study, conducted pursuant to Section 18722, of Article 6.1 of this Chapter. The objectives shall include plans to source reduce and safely collect, recycle, treat and dispose of household hazardous waste generated within the jurisdiction.

(c) The HHW Element shall specify the time frame for achievement of each objective.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Sections 40051, 41500 and 41510, Public Resources Code.*

Section 18751.2. Household Hazardous Waste Existing Conditions Description.

This Article establishes guidelines for the Form 303 Household Hazardous Waste Collection Report, which local government agencies who are responsible for household hazardous waste management in California must submit annually to report amounts of material collected and managed by those agencies.

Authority cited: *Section 40502, Public Resources Code; and Section 25218.10, Health and Safety Code.*
Reference: *Sections 41500, 41510, 41750 and 47103, Public Resources Code; and Section 25218.9, Health and Safety Code.*

Section 18751.2.2. Form 303 Submittals.

(a) Each public agency that is responsible for HHW management must complete and submit a "Form 303 Household Hazardous Waste Collection Report" (Form 303) electronically to the Department of Resources Recycling and Recovery each year. The Form 303 may be submitted as a hard copy instead only upon request to the Department of Resources Recycling and Recovery.

(b) All public agencies responsible for HHW management must submit as part of the Form 303 the following information to the Department of Resources Recycling and Recovery:

(1) Contact information of the person responsible for submitting the Form 303:

(A) Name of HHW program manager

(B) Name of public agency

(C) Mailing address

(D) Phone Number

(E) E-mail address

(F) Contractor's name, if applicable

(2) Program information

(A) If a public agency collects HHW and reports material collection data on behalf of another agency(ies), that agency shall provide the names of their participating agency(ies).

(B) Information pertaining to each permanent HHW collection facility within the program service area, if applicable:

(i) Name of Facility

(ii) EPA ID number, if applicable

(iii) Facility address

(iv) Site contact name and title

(v) E-mail address of site contact

(C) A list of Program Types used, including an EPA ID number for each program type.

(D) Number of households that participated in the collection program, and the method used to calculate this.

(E) Number of households in service area. A public agency shall indicate on their report if this figure is different from the household figure in the most current Department of Finance E-5 Report on Population and Housing Estimates for Cities, Counties, and the State.

(3) Material Collection and Disposition. Each public agency that is responsible for HHW management shall ensure that the amount of material collected through their program during the preceding reporting period is reported annually, by weight in pounds. Material collection and disposition shall be described by using the categories, program types, and dispositions described in Section 18751.2.3.

(A) A reporting agency may include amounts of materials collected on behalf of a participating agency(ies) in their Form 303, but is not required to report specific amounts for each participating agency.

(B) If a public agency manages and reports materials on behalf of a participating agency, the participating agency shall only report amounts of materials that were not already reported on their behalf.

(c) The reporting timeframe shall be July 1 of the previous fiscal year through June 30 of that fiscal year, with the information required to be submitted to the state by the October 1 of the following fiscal year.

(d) If a public agency responsible for HHW management is collecting materials on behalf of or through a stewardship program, the public agency shall include those materials in their Form 303.

(e) A public agency is not required to submit a Form 303 only if all of that agency's material collection amounts have been reported on another agency's Form 303.

Authority cited: *Section 40502, Public Resources Code; and Section 25218.10, Health and Safety Code.*

Reference: *Sections 41500, 41510, 41750 and 47103, Public Resources Code; and Section 25218.9, Health and Safety Code.*

Section 18751.2.3. Material Collection and Disposition.

(a) Material collection amounts shall be reported for the following categories:

(1) Flammable and Poison

(2) Inorganic and organic acid

(3) Inorganic and organic base

(4) Neutral oxidizers, organic peroxides, oxidizing acid/base

(5) PCB-containing materials

(6) Reclaimable

(7) Asbestos

(8) Universal Waste

(9) Other

(b) If a material category not listed in (a)(1)-(9) is determined to be a hazardous waste under Health and Safety Code §25175(a)(1)-(2) or other statute or regulations, the reporting agency shall report the collection of materials in that category via the Form 303.

(c) Each public agency shall report the program types used to collect the materials reported in Section (a) and, if applicable, Section (b). Program types include the

following:

- (1) Permanent HHW collection facility
- (2) Temporary (periodic) facility
- (3) Mobile Facility
- (4) Recycle-only facility
- (5) Door to Door (residential) program
- (6) Curbside Program
- (7) Load Check
- (8) Other program type not specifically listed in (c)(1)-(7). The reporting agency shall describe the program type used.

(d) Each public agency shall report the disposition of the materials collected by their program, by weight in pounds, during the preceding reporting period by the following categories:

- (1) Destructive Incineration
- (2) Fuel Incineration
- (3) Landfill
- (4) Neutralization/Treatment
- (5) Recycled
- (6) Reused
- (7) Stabilization
- (8) Stewardship Program. The reporting agency shall name the stewardship program(s) used.

Authority cited: *Section 40502, Public Resources Code; and Section 25218.10, Health and Safety Code.*

Reference: *Sections 41500, 41510, 41750 and 47103, Public Resources Code; and Section 25218.9, Health and Safety Code.*

Section 18751.3. Evaluation of Household Hazardous Waste Program Alternatives.

The HHW Element shall include an evaluation of the Program alternatives which have

been considered for local implementation consistent with the objectives of Section 18751.1 of this Article, including but not limited to the following:

(a) Program alternatives including, but not limited to:

(1) collection alternatives, as follows:

(A) periodic community-wide, or neighborhood household hazardous waste collection;

(B) permanent household hazardous waste drop-off sites;

(C) mobile household hazardous waste collection; and

(D) local activities, actions or efforts to encourage the formation of privately or publicly operated fee-for-service, door-to-door, or curbside household hazardous waste collection alternatives.

(2) load-checking programs for household hazardous waste at all solid waste management facilities; and

(3) waste exchange, reuse and/or recycling alternatives for household hazardous wastes including, but not limited to, alternatives for waste oils, paints, and batteries.

(b) Each alternative considered shall be evaluated in terms of the following criteria and any other local considerations:

(1) hazards, as defined by Section 18720(a)(26) of this Chapter, which are created by the alternative considered;

(2) ability to accommodate changing economic, technological, and social conditions;

(3) whether it can be implemented in the short-term and medium-term planning periods; and

(4) the need for expanding existing facilities or constructing new facilities to support implementation of the alternative.

(5) In addition, the evaluation shall include, but not be limited to, the following:

(A) a discussion of the consistency of each alternative with applicable local policies, plans, and ordinances based upon local conditions;

(B) a discussion of any institutional barriers to local implementation of each alternative;

(C) an estimate of the costs related to the implementation of each alternative being evaluated for the short-term and medium-term planning periods; and

(D) a discussion of the availability of local, regional, state, national, and international end-uses for the materials which would be diverted through implementation of each

alternative being considered.

(6) effectiveness in reducing either the volume or weight of HHW generated.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500 and 41510, Public Resources Code.*

Section 18751.4. Selection of Household Hazardous Waste Program.

(a) The HHW element shall identify and describe the diversion alternatives which have been selected for the jurisdiction's HHW program, including existing diversion alternatives, expansion of existing diversion alternatives, and new diversion alternatives, which will be implemented to meet the goals and objectives of the element. This selection shall be based upon the evaluations conducted pursuant to Section 18751.3 of this Article. The program description shall include, but not be limited to, the following:

(1) a discussion of each diversion alternative selected for the program identifying why the alternative was selected for implementation. This discussion shall be based upon the data compiled in the solid waste generation study conducted pursuant to Article 6.1, of this Chapter; information contained in the solid waste generation analysis required by Section 18732 of Article 6.2; and the evaluation conducted pursuant to Section 18751.3 of this Article.

(2) as applicable to the element, a listing of the anticipated local, regional, state, national, and/or international end-uses for diverted materials based upon the evaluation of the diversion alternatives required by Section 18751.3(b)(5)(D) of this Article;

(3) as applicable to the element, a description of the proposed methods for handling and disposal which may be necessary to implement the selected program; and

(4) a description of any facilities to be utilized for the implementation of the program which Section 18751.2 of this Article has shown must be expanded or built to support implementation of the selected program identified in Section 18751.3 of this Article.

(b) In addition to the above requirements, the program description shall include the following:

(1) an identification of the types and quantities of household hazardous wastes anticipated to be collected, recycled, and/or disposed through proposed programs using household hazardous waste categories contained in form CIWMB-303 "Household Hazardous Waste Collection Information for Fiscal Year __/__" (5/95), which is incorporated herein by reference (See Appendix A.):

(A) where applicable, specification of the targeted Public participation goals by Percent of the Population of the affected jurisdiction for each Preferred program alternative;

(2) a description of recycling and/or reuse efforts to be used in conjunction with a proposed household hazardous waste program;

(3) a description of all proposed cooperative and/or multi-jurisdictional household hazardous waste program implementation efforts/actions/activities in which the jurisdiction intends to participate.

Authority cited: *Section 40502, Public Resources Code and Section 25218.10, Health and Safety Code.*

Reference: *Sections 41500, 41510, 41750 and 47103, Public Resources Code.*

Section 18751.5. Implementation of Household Hazardous Waste Program.

(a) The element shall contain a program implementation schedule that includes, but is not limited to, the following:

(1) identification of government agencies and divisions thereof, organizations, and/or persons responsible for implementation of the selected program;

(2) identification of the tasks necessary to implement the selected program; and,

(3) identification of a short-term and medium-term planning period implementation schedule addressing each task identified in paragraph (a)(2) of this Section which specifies the date each task will be completed.

(b) The jurisdiction may use technical assistance, program guidelines, and model operation plans, provided by the Board, for community household hazardous waste collection programs in the implementation of its household hazardous waste program.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500, 41510, 47100 through 47106, and 41750, Public Resources Code.*

Section 18751.6. Monitoring and Evaluation.

The element shall contain an explanation of how the program is to be monitored and evaluated as follows:

(a) identify the methods chosen from (b) of this Section, which are being used to monitor achievement of the jurisdiction's objectives, as described in Section 18751.1, including but not limited to, the success in reducing or eliminating household hazardous waste.

(b) each jurisdiction shall use one or more of the following methods to monitor and evaluate the diversion objectives achieved within the jurisdiction:

(1) a Waste Generation Study consistent with the waste generation study prepared under Section 18722, of Article 6.1 of this Chapter;

(2) targeted solid waste characterization studies involving all or a representative sample

of solid waste landfill facilities, used by a jurisdiction, to measure changes in the volume, weight and hazard of specific materials, with adjustments or shifts in household hazardous waste generation resulting from source reduction;

(3) an assessment of any changes in the design, production, distribution, sale, and/or use of selected products and packages which affect household hazardous waste generation;

(4) monitoring of accurately maintained records of the volumes and types of HHW collected; or

(5) another method for which prior written approval has been given by the Board.

(c) Each jurisdiction shall provide the following information based upon the specific monitoring and evaluation methods selected for each program:

(1) written criteria for evaluating the program's effectiveness;

(2) identification of agencies or divisions thereof, organizations, and/or persons responsible for the program's monitoring, evaluation, and reporting;

(3) identification of known monitoring and evaluation funding requirements, revenues, and revenue sources; and

(4) identification of measures to be implemented if monitoring shows a shortfall in the attainment of the objectives of the element. Such measures may include, but are not limited to, provisions for:

(A) increasing the frequency of program monitoring and review,

(B) modification of the objectives, or,

(C) modification of the Program to increase its effectiveness.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500 and 41510, Public Resources Code.*

Section 18751.7. Education and Public Information.

(a) Objectives. The education and public information Section of the element shall include a statement of educational and informational objectives for the short-term and medium-term planning periods.

(b) Existing program description. A description of all known existing educational and public information programs and activities within the jurisdiction which promote the source reduction, reuse, recycling and safe disposal of household hazardous waste shall be included.

(c) Identification of Preferred Alternatives. The public information and education Section shall list the preferred alternatives both existing and proposed which will be maintained or implemented in the short and medium term Planning Periods to achieve the objectives of this Section.

(d) Program implementation. A program implementation discussion which includes the following shall be submitted:

(1) identification of community audiences to be targeted in educational and public information programs;

(2) identification of those agencies or divisions thereof, organizations, and/or persons responsible for implementation;

(3) identification of the required implementation tasks;

(4) short-term and medium-term implementation schedules for tasks listed in (3) above;

(5) identification of all public and private program implementation costs, revenues, and revenue sources necessary for program implementation; and,

(6) public information and education alternatives to promote the use of safer substitute products or practices in households.

(e) Monitoring and evaluation. The Section shall:

(1) identify the methods to be used to measure achievement of the education and public information objectives identified pursuant to Section (a), above;

(2) establish written criteria by which to evaluate program effectiveness;

(3) identify agencies or divisions thereof, organizations, and/or persons responsible for program monitoring, evaluation, and reporting;

(4) identify monitoring and evaluation funding requirements, revenues, and revenue sources;

(5) identify measures to be implemented if monitoring performed pursuant to Section 18751.6(a) of this Article shows a shortfall in the attainment of the household hazardous waste disposal objectives; and

(6) establish a program monitoring and reporting schedule.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500 and 41510, Public Resources Code.*

Section 18751.8. Funding.

(a) The jurisdiction shall demonstrate that there is sufficient funding and allocation of

resources for:

- (1) program planning and development;
 - (2) implementation of programs in order to comply with the requirements of Sections 41500 and 41510 of the Public Resources Code.
- (b) The funding Section shall provide cost estimates for element programs scheduled for implementation in the short-term planning period, as follows:
- (1) The funding Section shall identify revenue sources sufficient to support the element programs.
 - (2) The funding Section shall identify sources of contingency funding for element programs in the event that preferred revenue resources are insufficient.
- (c) The funding Section shall include a table which summarizes Program implementation costs, including public and private costs, revenues, and revenue sources necessary for implementation of the selected program.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41500 and 41510, Public Resources Code.*

Article 6.4. Nondisposal Facility Element

Section 18752. Scope.

- (a) The Nondisposal Facility Element (NDFE) shall identify the nondisposal facilities to be used by a jurisdiction to assist in reaching the diversion mandates of Public Resources Code Section 41780.
- (b) The NDFE shall include the items identified in Sections 18752 through 18754.5 of this chapter.
- (c) For the purpose of this Article, a nondisposal facility is any solid waste facility required to obtain a permit pursuant to Article 1 (commencing with Section 44001) Chapter 3, Part 4 of the Public Resources Code, except a disposal facility or a transformation facility.
- (d) The NDFE shall reflect information available to a jurisdiction at the time of the development of the document. The NDFE may also contain additional information as determined by a jurisdiction.
- (e) A jurisdiction may include other facilities not defined as nondisposal facilities (i.e. recycling centers, drop-off centers, household hazardous waste facilities, etc.).
- (f) For the purpose of this Article, a jurisdiction is a city, county, city and county, or regional agency.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41730, 41731, 41732, 41733 and 41750.1, Public Resources Code.*

Section 18753. Description of Nondisposal Facilities Outside a Jurisdiction.

The NDFE shall identify all existing, expansion of existing, and proposed nondisposal facilities located within a jurisdiction which recover for reuse or recycling at least five percent of the total volume of material received by the facility.

(a) Each facility description shall include, but is not limited to:

(1) type of facility;

(2) facility capacity;

(3) anticipated diversion rate or expected diversion rate from the total amount of the waste that the facility receives; and,

(4) participating jurisdictions.

(b) Each facility location description may include, but is not limited to:

(1) address of the facility; or,

(2) description of the general area, (include a land use map, zoning map, or other type of planning map).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41730, 41731, 41732, 41733 and 41750.1, Public Resources Code.*

Section 18753.5. Description of Transfer Stations Within a Jurisdiction.

The NDFE shall identify all existing, expansion of existing, and proposed nondisposal facilities which a jurisdiction, plans to utilize, but which are not located within the jurisdiction, and which recover for reuse or recycling at least five percent of the total volume of material received by the facility.

(a) Each facility description shall include, but is not limited to:

(1) type of facility;

(2) estimated amount of the waste the jurisdiction will transport to the facility;

(3) anticipated diversion rate or expected diversion rate from the total amount of the waste that the facility receives; and,

(4) location of facility.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41730, 41731, 41732, 41733 and 41750.1, Public Resources Code.*

Section 18754. Description of Transfer Stations Within a Jurisdiction.

The NDFE shall identify existing, expansion of existing, and proposed transfer stations located within a jurisdiction, which recover less than five percent of the volume of materials received for reuse or recycling.

(a) Each facility description shall include, but is not limited to:

- (1) name of facility; and,
- (2) participating jurisdictions.
- (3) facility capacity.

(b) Each facility location description may include, but is not limited to:

- (1) address of the facility; or,
- (2) description of the general area, (include a land use map, zoning map, or other type of planning map).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41730, 41731, 41732, 41733 and 41750.1, Public Resources Code.*

Section 18754.5. Description of Transfer Stations Outside a Jurisdiction.

The NDFE shall identify existing, expansion of existing, and proposed transfer stations to be used by a jurisdiction but not located within the jurisdiction, which recover less than five percent of the volume of materials received for reuse or recycling.

(a) Each facility description shall include, but is not limited to:

- (1) name of facility; and,
- (2) location of facility.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41730, 41731, 41732, 41733 and 41750.1, Public Resources Code.*

Article 6.5. Siting Elements.

Section 18755. General Requirements.

(a) The Siting Element shall demonstrate that there is a countywide or regionwide minimum of 15 years of combined permitted disposal capacity through existing or planned solid waste disposal and transformation facilities or through additional strategies.

(b) The Siting Element shall describe and identify the areas, numbers and types of new solid waste disposal and transformation facilities, as well as the expansion of existing solid waste disposal and transformation facilities necessary to provide a minimum of 15 years of combined permitted disposal capacity.

(c) If the requirements of subdivision (b) of this Section cannot be demonstrated, then strategies shall be discussed for the transformation, disposal, or diversion of excess waste.

(d) The Siting Element shall include the items identified in Sections 18755.1 through 18756.7 of this Article.

(e) A "Siting Element" may be prepared by a regional agency when the regional agency is composed of two or more counties and all incorporated cities of those counties.

(f) For the purposes of this Article, "countywide" shall be defined as including the incorporated cities within the county and the unincorporated areas of the county. For purposes of this Article, "county" shall include the Board of Supervisors as the legislative and executive body of county government, and any designated agency responsible for solid waste management.

(g) For the purposes of this Article, "regionwide" shall be defined as including the member agencies of the regional agency. For the purposes of this Article, a "regional agency" shall be the governing entity created by a voluntary agreement between cities and counties for the purpose of complying with Part 2 of Division 30 of the Public Resources Code. A city or county which is a party to such an agreement shall be considered a "member agency" of the regional agency. A regional agency may authorize one district, as defined in subdivision (a) of Section 41821.2 of the Public Resources Code, to be included as a member of the regional agency.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900, 40970-40972, 40977, 41700-41721.5, 41750.1 and 41821.2, Public Resources Code.*

Section 18755.1. Goals and Policies.

(a) The Local Task Force (LTF) shall develop goals, policies, and procedures to provide guidance to the county to prepare the Siting Element. Based upon this guidance, the

Siting Element shall include a statement on the goals and policies established by the county.

(b) The LTFs of each county, which are member agencies of a regional agency formed pursuant to Section 18776(b) of this chapter, shall develop goals, policies, and procedures to provide guidance to the regional agency to prepare the Siting Element. Based upon this guidance, the Siting Element shall include a statement on the goals and policies of the regional agency.

(c) The goals shall be consistent with the mandates of Public Resources Code Section 40051. The goals shall describe the method for the environmentally safe disposal of solid waste generated within the boundaries of the county and regional agency.

(d) The policies shall specify any programs, regulatory ordinances, actions, or strategies that may be established to meet the goals described in subdivision (c) of this Section and to assist in the siting of solid waste disposal facilities. An implementation schedule shall be included which identifies tasks necessary to achieve each selected goal.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40950(d), 41700 and 41701(a), Public Resources Code.*

Section 18755.3. Disposal Capacity Requirements.

(a) Each county and regional agency, with assistance from the Local Task Force, shall include documentation in the Siting Element of the following information:

(1) the January 1, 1990 disposal capacity in cubic yards and in tons established pursuant to CCR 18777(b);

(2) the existing disposal capacity in cubic yards and in tons in the year the Siting Element is prepared; and

(3) the disposal capacity in cubic yards and in tons in any year the Siting Element is revised.

(b) The anticipated disposal capacity needs shall be described in cubic yards and tons, on an annual basis and aggregated for a minimum 15-year period, beginning with the year in which the Siting Element is prepared, and any year the Siting Element is revised.

(c) Area(s) shall be selected where solid waste disposal facilities are envisioned to be expanded or sited and constructed for the purpose of meeting a required minimum of 15 years of combined permitted disposal capacity. Each county and regional agency shall consider the following in determining the areas where solid waste disposal facilities are planned to be expanded or sited and constructed:

(1) the total amount of solid waste generated, expressed in cubic yards and in tons for volumetric capacity for the required 15-year period;

(2) the existing remainder of combined permitted disposal capacity in cubic yards and in tons for the required 15-year period; and

(3) an estimation of the total disposal capacity in cubic yards and in tons needed to meet a minimum of 15 years of combined permitted disposal capacity.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41701(b), (c) and (d), and 41791, Public Resources Code.*

Section 18755.5. Description of Existing Solid Waste Disposal Facilities.

(a) The Siting Element shall include an identification of each permitted solid waste disposal facility located countywide and regionwide. The description shall include, but not be limited to, the following information for each facility:

(1) the name of the facility and the name of the facility owner and operator;

(2) the facility permit number, permit expiration date, date of last permit review, and an estimate of remaining site life, based on remaining disposal capacity;

(3) the maximum permitted daily and yearly rates of waste disposal, in tons and cubic yards;

(4) the average rate of daily waste receipt, in tons and cubic yards;

(5) the permitted types of wastes; and,

(6) the expected land use for any site being closed or phased out within the 15-year planning period.

(b) The Siting Element description shall include a map showing each existing permitted solid waste disposal facility countywide and regionwide. The map shall be drawn to scale and the scale legend included on the map sheet. The type of map may be a 7.5 or 15 minute USGS quadrangle.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 50001, Public Resources Code.*

Section 18756. Criteria for Establishing New or for Expanding Solid Waste Disposal Facilities.

(a) To establish a new solid waste disposal facility or to expand an existing solid waste disposal facility, the county and regional agency shall describe the criteria to be used in the siting process for each facility. The criteria shall include, but not be limited to, a description of the major categories of Environmental Considerations, Environmental Impacts, Socioeconomic Considerations, Legal Considerations, and additional criteria as developed by the county, cities, regional agency and member agencies. The

following are examples of criteria that may be considered within those major categories:

(1) Environmental Considerations (for example: geology and solids including faulting and seismicity, ground settlement, surface hydrology and ground water, quantity and quality of ground water, surface water, surface water contamination, drainage patterns, etc.);

(2) Environmental Impacts (for example: air quality including climatic and meteorological conditions and emissions, visibility, cultural resources including regional setting, inventory and significance, paleontological resources including inventory and significance, vegetation, and wildlife, etc.);

(3) Socioeconomic considerations (for example: transportation including local and regional transportation systems, highways and major roadway corridors, rail transportation and corridors, land use including regional and local land uses such as military use, mineral extraction, agriculture, recreation/tourism, compatibility with existing and future land uses, consistency with county general plan(s) and future post-closure uses, economic factors including estimates of development costs and operational costs, etc.);

(4) Legal considerations (for example: federal, state, and local minimum standards and permits, liabilities, and monitoring, etc.);

(5) Additional criteria as may be included by the county, cities, regional agency and member agencies approving the Siting Element.

(b) The Siting Element shall describe the process instituted countywide or regionwide to confirm that the criteria set forth in (a)(1-5) of this Section are included as part of the solid waste disposal facility siting process.

(c) The countywide Siting Element shall be approved by the county and the cities as described in Public Resources Code Section 41721. The regionwide Siting Element shall be approved by the regional agency as described in Section 18783(c) of this chapter. The Siting Element shall include: a resolution from each jurisdiction and member agency approving or disapproving of the Siting Element or any proposed amendment to the element; and a record of any jurisdiction or member agency failing to act upon the Siting Element.

(d) No solid waste disposal facility in the Siting Element shall be established that does not satisfy the minimum criteria that are adopted in the Siting Element pursuant to Section 18756(a) of this Article.

(e) A solid waste disposal facility not described within the Siting Element shall not be established unless an amendment to the Siting Element has been approved identifying and describing the facility, and the date of its inclusion in the element pursuant to PRC Section 41721.5.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41700, 41701, 41702, 41704 and 50001, Public Resources Code.*

Section 18756.1. Proposed Facility Location and Description.

(a) The Siting Element shall include a description of each proposed new solid waste disposal facility and a description of each proposed expansion of an existing solid waste disposal facility for each county and regional agency included in the Siting Element which complies with the criteria identified in Section 18756 of this Article. The description shall include the type of facility, location, size, volumetric capacity of the facility expressed in cubic yards and in tons, life expectancy (years), expansion options of the existing or proposed facility, and post-closure uses.

(1) Each Siting Element shall include one or more maps indicating the location of each proposed solid waste disposal facility and adjacent and contiguous parcels. The map(s) shall be drawn to scale and include the scale on the map sheet. The type of map(s) may be a 7.5 or 15 minute USGS quadrangle.

(b) A description shall be provided in the Siting Element of how each proposed solid waste disposal facility contributes to and maintains for each county or regional agency included in the Siting Element the minimum of 15 years of combined permitted disposal capacity as described in CCR 18755(a) of this Article and is consistent with the diversion goals of Public Resources Code Section 41780.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41700, 41701, 41702, 41704 and 41780, Public Resources Code.*

Section 18756.3. Consistency with City and County General Plans for New or Expanded Solid

Waste Disposal Facilities.

(a) Reserved areas for proposed new or the expansion of existing solid waste disposal facilities shall be identified in the Siting Element. Verification shall be made that the expanded or proposed facilities are located in areas where the land use is designated or authorized for solid waste disposal facilities and that the areas are consistent with the applicable city and county general plans. Verification of general plan consistency shall include a resolution, notarized statement, or affidavit from each applicable city and the county. Proposed areas that are consistent with the current city and county general plans shall be reserved pursuant to the requirements of Public Resources Code Sections 41702 and 41720.

(b) Proposed areas that are not situated in, coextensive with, or adjacent to an area authorized for land use as a solid waste disposal facility, within an applicable city and county general plan, may be "tentatively reserved" for future or expanded solid waste disposal facilities. Proposed areas that are inconsistent with applicable city and county general plans shall be tentatively reserved pursuant to the requirements of Public Resources Code Sections 41710 through 41712.

(c) Proposed areas included in the Siting Element may be identified as “tentatively reserved” in the initial filing of a Countywide and Regionwide Integrated Waste Management Plan, as determined by Public Resources Code Section 41791. However, by the first five-year revision of the Countywide and Regionwide Integrated Waste Management Plan all areas identified to assure the minimum of 15 years of combined permitted disposal capacity as described in CCR 18755(a) of this Article must meet the requirements of Public Resources Code Section 41702.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41702, 41704, 41710-41712 and 41720, Public Resources Code.*

Section 18756.5. Strategies for Disposing of Solid Waste in Excess of Capacity when New or Expanded Sites Are Not Available.

(a) The Siting Element shall provide an analysis describing the reasons why there are not available locations for establishing new or expanding existing solid waste disposal facilities within each county or regional agency included in the Siting Element. This analysis shall include a determination of whether the inability to establish new or to expand existing solid waste disposal facilities is due to the lack of locations with the appropriate physical or environmental site characteristics or because of other considerations; and,

(b) If new or expandable solid waste disposal facilities are not available, or are not sufficient to meet countywide or regionwide needs, each county and regional agency shall include strategies for disposing of solid waste. The discussion of strategies shall include, but is not limited to, the following:

(1) A description of the types (residential, commercial, industrial, and special) and quantities in cubic yards and in tons of waste in excess of remaining volumetric capacity of existing solid waste disposal facilities;

(2) A description of the diversion or export programs which will be implemented to safely handle and divert or dispose of excess solid waste. The description shall identify the existing solid waste disposal facilities, including those outside of the county or regional agency, that will be used to implement these strategies. The description shall document how the proposed programs shall provide the county or regional agency with sufficient disposal capacity to meet the required minimum of 15 years of combined permitted disposal capacity as described in CCR 18755(a) of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41703, Public Resources Code.*

Section 18756.7. Siting Element Implementation.

(a) The Siting Element shall include, but not be limited to, the following:

(1) identification of local government agencies, Local Task Forces, regional agencies,

organizations, and any others, responsible for implementing the countywide or regionwide solid waste disposal facility siting program;

(2) implementation schedules addressing each task identified in Section 18755.1(d) for a minimum of 15 years beginning with the year in which the element is prepared; and,

(3) identification of revenue sources sufficient to support the administration and maintenance of the countywide or regionwide solid waste disposal facility siting program.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900 and 41700, Public Resources Code.*

Article 6.6. Countywide and Regional Agency Integrated Waste Management Plans

Section 18757. General Requirements.

(a) The Countywide Integrated Waste Management Plan (CIWMP) shall include the following:

(1) for a county with no regional agency within its boundaries, the Source Reduction and Recycling Elements (SRREs), Household Hazardous Waste Elements (HHWEs), and Nondisposal Facility Elements (NDFEs) for the county and each city within the county, and the Siting Element and Summary Plan;

(2) for a county composed of one or more regional agencies:

(A) a SRRE, HHWE, and NDFE for each city that is not a member agency of the regional agency and for the county if it is not a member agency of the regional agency;

(B) a SRRE, HHWE, and NDFE for each city that is a member agency of the regional agency and for the county if it is a member agency of the regional agency, or the SRRE, HHWE, and NDFE for the regional agency, if the regional agency has elected to prepare one or more of these as regional documents; and

(C) a countywide Siting Element and Summary Plan.

(b) The Regional Agency Integrated Waste Management Plan (RAIWMP) shall include the following:

(1) for a regional agency composed of two or more counties and all of the cities within those counties, either:

(A) a SRRE, HHWE, and NDFE for each city and county which are member agencies of the regional agency and the Siting Element and Summary Plan for each county; or

(B) a SRRE, HHWE, and NDFE, Siting Element, and Summary Plan for the regional

agency.

(2) for a regional agency composed of more than one county, but which does not encompass all of the cities within those counties, a SRRE, HHWE, and NDFE for the regional agency;

(3) for a regional agency composed of more than one county, and which includes all of the cities and the unincorporated area within at least one of those counties, but not all of the cities within the other county(ies), a SRRE, HHWE, and NDFE for the regional agency, a Siting Element and Summary Plan for each county that is wholly encompassed by the regional agency.

(c) The Summary Plan shall include the items identified in Sections 18757.1 through 18758 of this Article.

(d) For the purposes of this Article, "countywide" shall be defined as including the incorporated cities within the county and the unincorporated areas of the county. For purposes of this Article, "county" shall include the Board of Supervisors as the legislative and executive body of county government, and any designated agency responsible for solid waste management.

(e) For the purposes of this Article, "regionwide" shall be defined as including the member agencies of a regional agency. For the purposes of this Article, "Regional Agency" shall be the governing entity created by a voluntary agreement between cities and counties to carry out the mandates of Public Resources Code Section 41780. A city or county which is party to such an agreement shall be considered a "member agency" of the Regional Agency. A regional agency may authorize one district, as defined in subdivision (a) of Section 41821.2 of the Public Resources Code, to be included as a member of the regional agency.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40977, 41750-41760 and 41821.2, Public Resources Code.*

Section 18757.1. Goals and Objectives.

The Local Task Force (LTF) shall develop goals, policies, and objectives to provide guidance to the county or regional agency in coordinating countywide and regionwide diversion programs, marketing strategies, and disposal strategies for the medium-term planning (1996-2000) period. Based upon this guidance, the Summary Plan shall include a statement on the goals, policies, and objectives established by the county or regional agency.

(a) The goals shall be consistent with the mandates of Public Resources Code Section 40051. The goals shall express plans for integrating strategies aimed towards reducing, diverting, marketing, and safely handling and disposing of all solid waste generated countywide or regionwide.

(b) The Summary Plan shall identify policies within the Source Reduction and Recycling Elements and Household Hazardous Waste Elements that facilitate the reduction of solid waste for incorporated cities and the unincorporated area of the county or the regional agency.

(c) The Summary Plan shall contain specific objectives for achievement of the goals stated in subdivision (a) of this Section. These objectives shall allow for measurements of progress made toward achieving the goals by including an implementation schedule which identifies specific tasks and milestones necessary to achieve each objective.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41750 and 41751, Public Resources Code.*

Section 18757.3. County and Regional Agency Profile and Plan Administration.

The Summary Plan shall include:

(a) A general countywide or regionwide description including, but not limited to, topography, major roadways, city boundaries, and climate.

(b) A summary of important demographic data, including, but not limited to, population, ethnicity, average age and income of the citizens, housing, seasonal demographic fluctuations, and transportation patterns.

(c) A description of the governmental solid waste management infrastructure, including all local jurisdiction waste management entities, solid waste management authorities or districts, and any other regional agencies responsible for countywide or regionwide waste handling and/or disposal.

(d) An identification of the entity(ies) responsible for the following Plan-related functions: public information; budgeting; implementation of a solid waste management program; and, administration (such as maintenance, revision, and coordination of Plan-related documents).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41751, Public Resources Code.*

Section 18757.5. Description of Current Solid Waste Management Practices.

The Summary Plan shall describe the current or most recent countywide or regionwide solid waste management practices.

(a) The Summary Plan shall contain a description of all factors affecting the current collection,

removal, and disposal of solid wastes. This description shall include, but not be limited to:

(1) service areas;

- (2) designation of territories served through franchises, permits, contracts, or governmental services;
 - (3) quantity of waste collected in each jurisdiction of the CIWMP or RAIWMP area (tons and cubic yards per day/year);
 - (4) a description of storage and transportation needs and existing and anticipated methods for handling the collected materials targeted for recycling.
 - (5) final destination of collected wastes (e.g., landfill, transformation, exportation), by quantity (tons and cubic yards).
- (b) The Summary Plan shall identify all permitted solid waste facilities located countywide or regionwide. This description shall include, but not be limited to, the following information:
- (1) Facility name and location; and
 - (2) A map showing existing permitted solid waste facilities countywide or regionwide. The map should be drawn to scale and the scale and legend included on the map sheet. The map may be a 7.5 or 15 minute USGS quadrangle.
 - (c) The Summary Plan may include a description of waste diversion facilities located countywide or regionwide that are exempt or have received an exclusion from a solid waste facilities permit, to the extent practicable. For each facility this description should include:
 - (1) the reason for exemption or exclusion;
 - (2) the estimated amount and type of material recovered/processed; and,
 - (3) the operator(s) and owner(s).
 - (d) The Summary Plan shall include, for countywide or regionwide programs, a description of Recycling Market Development Zones, and applicable strategies for processing and/or marketing secondary materials, including forming regional secondary materials marketing associations and joining associations outside the jurisdictional boundaries. The description shall discuss the county's or regional agency's role in developing markets.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41751, Public Resources Code.*

Section 18757.7. Summary of Source Reduction and Recycling Elements, Household Hazardous Waste Elements and Nondisposal Facility Elements.

The Summary Plan shall:

- (a) Summarize the types of programs planned in the Source Reduction and Recycling

Elements by component from all the jurisdictions. This summary shall include, but is not limited to, the following:

- (1) a listing and description of the planned and current diversion programs;
- (2) a listing and identification of all planned contingency programs and measures; and
- (3) a listing of targeted materials and marketing strategies, by program.

(b) Summarize the types of programs planned in the Household Hazardous Waste Elements from all jurisdictions. This summary shall include, but is not limited to, the following:

- (1) a listing and identification of all planned and contingency programs and measures; and
- (2) a listing of targeted materials and marketing strategies, by program.

(c) List the types and numbers of facilities planned in the Nondisposal Facility Elements from all jurisdictions and identify which jurisdictions are served by or use the facility(ies).

(d) Describe the coordination or consolidation of programs identified in subdivisions (a) and (b) of this Section to include the following:

(1) identification and description of programs that were coordinated or consolidated and those programs that may be coordinated or consolidated in the future into countrywide or regionwide programs; and

(A) implementation schedules for the coordination or consolidation of individual jurisdiction's programs into countywide or regionwide programs.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41751, Public Resources Code.*

Section 18758. Countywide and Regional Agency Integrated Waste Management Plan Financing.

The Summary Plan shall:

(a) Provide cost estimations for the countywide or regionwide programs and facilities scheduled for implementation and use.

(b) Summarize funding sources and allocation of revenues for all program and facility planning and implementation tasks identified in the Summary Plan.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41751, Public Resources Code.*

Article 7. Procedures for Preparing and Revising City, Regional Agency and County Source Reduction and Recycling Elements, and Household Hazardous Waste Elements and City and County Nondisposal Facility Elements

Section 18760. Applicability.

(a) The procedures for preparing Source Reduction and Recycling Elements (SRREs), Household Hazardous Waste Elements (HHWEs) and Nondisposal Facility Elements (NDFEs) apply to the counties, cities, joint power authorities, regional agencies, special districts, or other agencies which are designated by the cities or counties, and are responsible for preparing these Elements.

(1) Cities, counties and cities which are also counties may enter into agreements to prepare and implement the SRREs, HHWEs and NDFEs which are specific to each jurisdiction.

(2) A city, county or a city and county shall be held accountable for implementation of the specified goals and programs of its SRRE and HHWE.

(b) For the purposes of this Article, a jurisdiction is a city, county, city and county, or regional agency.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40002, 40950, 40971 through 40975, 41000, 41300, 41500, 41510, 41730, 41731, 41850 and 41823, Public Resources Code.*

Section 18761. Local Task Force (LTF).

(a) Establishment. Each county board of supervisors, and a majority of the cities within the county which contain a majority of the population in

the county, shall submit written documentation to the Board approving the membership of their LTF, within 30 days after establishment of the LTF.

(1) The documentation submitted to the Board shall denote the identity of the members in the LTF, and whether the members represent the governmental or the private sectors, or other entities or groups. The documentation shall define the terms of membership for each member.

(2) The terms of membership shall be determined by the county board of supervisors and a majority of the cities within the county which contain a majority of the population in the county.

(3) After its establishment, each LTF shall inform the Board of how frequently it intends to meet.

(b) Role of the LTF. The LTF shall advise jurisdictions responsible for the SRRE, HHWE and NDFE preparation, and review goals, policies, and procedures for jurisdictions, which, upon implementation, will aid in meeting the solid waste management needs of the county, as well as the mandated source reduction and recycling requirements of Public Resources Code Section 41780.

(1) The LTF shall assist and advise in the review of the SRRE, HHWE, and NDFE, and shall assist jurisdictions in the implementation of the SRRE, HHWE, and NDFE.

(2) The LTF shall provide technical guidance and information regarding source reduction, waste diversion, and recycling to local jurisdictions during preparation and revision of the SRRE, HHWE and NDFE. Such information may be presented to the general public at public hearings and upon request by members of local government and community organizations.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40001, 40950, 41000, 41300, 41500, 41510, 41730 and 41731, Public Resources Code.*

Section 18762. SRRE, HHWE, and NDFE Preparation.

(a) A jurisdiction shall prepare the SRRE, HHWE, and NDFE pursuant to Articles 6.1, 6.2, 6.3, and 6.4 of this Chapter, as applicable.

(1) Except as provided by Public Resources Code Section 41735(a), a jurisdiction shall comply with the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Sections 21000 et seq.

(b) A jurisdiction shall submit written documentation to the Board of its designation of an agency responsible for preparation of the SRRE, HHWE and NDFE within 30 days of said designation.

(c) A jurisdiction, in coordination with the LTF, shall prepare and adopt the SRRE, HHWE, and NDFE, by the dates specified in Public Resources Code Sections 41000, 41300 and 41791, as applicable.

(d) For the purposes of this Article, after a jurisdiction prepares and adopts its NDFE, the NDFE shall be appended to the SRRE by the jurisdiction at the time the SRRE is submitted to the Board. At the time of the five year revision of the SRRE, the NDFE may be incorporated into the SRRE.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 21083, 40900, 40950, 41000, 41003, 41300, 41500, 41510, 41730, 41731, 41732, 41733, 41734, 41735, 41736, 41750, 41780 and 41791, Public Resources Code.*

Section 18763. Circulation of the Preliminary Draft SRRE and HHWE for Review.

- (a) A jurisdiction shall prepare a preliminary draft of its SRRE and HHWE.
- (b) If the jurisdiction is a city, the preliminary draft SRRE and HHWE shall be sent to adjoining cities, the county or regional agency responsible for the Countywide Integrated Waste Management Plan (CIWMP) or Regional Agency Integrated Waste Management Plan (RAIWMP) preparation, and the LTF.
- (c) If the jurisdiction is a county, the preliminary draft SRRE and HHWE shall be sent to adjoining cities and the LTF.
- (d) If the jurisdiction is a regional agency then the following applies:
 - (1) If the regional agency is composed of a single county but does not include all of the cities within the county, the preliminary draft SRRE and HHWE shall be sent to adjoining cities, the agency in the county responsible for the CIWMP preparation, and to the LTF.
 - (2) If the regional agency is composed of a single county and all of the cities within that county, the preliminary draft SRRE and HHWE shall be sent to adjoining cities and the LTF.
 - (3) If the regional agency is composed of two or more counties and all of the cities within the counties, the preliminary draft SRRE and HHWE shall be sent to adjoining cities, and the LTF of each affected county.
 - (4) If the regional agency is composed of two or more counties but does not include all of the cities within those counties, the preliminary draft SRRE and HHWE shall be sent to adjoining cities, each of the county agencies responsible for the CIWMP, and the LTF of each affected county.

Each jurisdiction shall also submit three copies of the draft SRRE and HHWE to the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900, 41000, 41300, 41500, 41510, 41750.1 and 41790, Public Resources Code.*

Section 18764. Review of the Preliminary Draft SRRE and HHWE.

(a) Review Period. In accordance with Government Code Section 15376, the review period shall be a minimum of 30 days, commencing upon the date of receipt of the Preliminary Draft SRRE and HHWE by a reviewing agency. The median time for review shall be 38 days. The maximum time for review shall be 45 days.

(1) Review by LTF. In reviewing the preliminary draft SRRE and HHWE, the LTF shall consider the issues of regional concern pursuant to Public Resources Code Section

40950(c) to aid in ensuring that they are addressed. Copies of written comments made by the LTF on the preliminary draft SRRE and HHWE shall be sent simultaneously to the Board and to the jurisdiction that prepared the preliminary draft SRRE and HHWE.

(2) Review by Other Reviewing Agencies. The county, adjacent cities, any association of regional governments, and the Board shall review the preliminary draft SRRE and HHWE and send written comments to the jurisdiction that prepared the preliminary draft SRRE and HHWE. A copy of the Board's written comments shall be sent simultaneously to the LTF.

Authority cited: *Section 40502, Public Resources Code; Section 15376, Government Code.*

Reference: *Sections 40950, 41000, 41300, 41500, 41510 and 41790, Public Resources Code.*

Section 18765. Review of the Final Draft SRRE, HHWE, and NDFE.

(a) Thirty (30) days prior to the public hearing for the adoption of the SRRE and HHWE, the jurisdiction shall send a copy of the final draft of its SRRE and HHWE to the LTF(s) of the affected counties for review. Within 15 days of receipt of the final draft of the SRRE and HHWE, the LTF shall provide written comments to the jurisdiction and the Board regarding the final draft.

(b) Ninety (90) days prior to the public hearing for the adoption of the NDFE, the jurisdiction shall send a copy of the final draft NDFE to the LTF for review. Within 90 days of receipt of the final draft NDFE, the LTF shall provide written comments to the city or county and the Board regarding the final draft.

(c) If deficiencies are indicated in the LTF's comments, the LTF shall meet with the jurisdiction to resolve them. If no resolution between the jurisdiction and the LTF can be achieved, the LTF shall send a letter to the jurisdiction and the Board indicating the remaining deficiencies of the SRRE, HHWE and NDFE.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40950, 40971, 41000, 41300, 41500, 41510, 41730, 41731 and 41734, Public Resources Code.*

Section 18766. Public Participation; Notice; Local Adoption of SRRE, HHWE, and NDFE.

(a) The general public, affected governmental entities, and private industries shall be given an opportunity to participate in the planning process and implementation of the SRRE, HHWE, and NDFE through attendance at informative meetings and public hearings.

(1) Pursuant to Public Resources Code Section 41793, at least one public hearing shall be held to receive testimony regarding the Preliminary Draft of the SRRE and HHWE

before a jurisdiction adopts its SRRE and HHWE.

(A) To inform the public of the hearing, the jurisdiction shall publish a notice in a local newspaper of general circulation at least 30 days in advance of the scheduled public hearing on the SRRE and HHWE.

(2) Jurisdictions may form advisory committees which may review and comment on draft elements, and provide technical guidance and support during the development of the SRRE, HHWE, and NDFE.

(b) In addition to the hearing or hearings held pursuant to (a)(1) of this Section, the governing body of the jurisdiction, shall conduct a public hearing for the purpose of adopting the SRRE, HHWE, and NDFE. After considering all comments of the members of the governing body and the public, the jurisdiction shall, by resolution, adopt the SRRE, HHWE and NDFE.

(1) To inform the public of the hearing, the jurisdiction shall publish a notice in a newspaper of general circulation at least three (3) days in advance of the scheduled public hearing on the final draft SRRE, HHWE, and NDFE.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900, 40971, 41000, 41300, 41500, 41510, 41730, 41731 and 41793, Public Resources Code.*

Section 18766.5. Revision of the SRRE Prior to Board Approval. [Repealed]

Section 18767. Submittal of City or Regional Agency SRRE, HHWE, and NDFE to the County and County NDFE to the Cities.

(a) A city, or regional agency which is composed of some cities within a single county, shall transmit one (1) copy of its SRRE and one (1) copy of its HHWE to the county in which it is located within 30 days of its adoption by the city or regional agency for incorporation into the CIWMP.

(1) A signed resolution and documentation that the jurisdiction has complied with CEQA (Public Resources Code Sections 21000 et seq.) shall accompany the SRRE and HHWE that are submitted to the county.

(b) A city, unless it is a city and county, or regional agency which is composed of some cities within a single county shall transmit a copy of its NDFE to the county in which it is located within 30 days of its adoption by the city or regional agency for incorporation into the CIWMP. This submittal shall occur no later than the applicable submittal dates in PRC Section 41791.5.

(c) A county, unless it is a city and county, shall transmit a copy of its NDFE to the cities which are located within the county within 30 days of adoption of the NDFE by the county. This submittal shall occur no later than the applicable submittal dates specified in PRC 41791.5.

Authority cited: *Section 40502, Public Resources Code*. Reference: *Sections 21803, 40971, 41000, 41300, 41500, 41510, 41791, 41730, 41731, 41750.1 and 41793, Public Resources Code*

Section 18768. Submittal of the SRRE, HHEWs, and NDFEs.

(a) A jurisdiction shall, according to the schedule set forth in PRC Section 41791.5, submit to the Board three (3) copies of its SRRE.

(1) When submitting the SRRE to the Board, the jurisdiction shall include a copy of the public notice(s) for the public hearings on the SRRE, a copy of the resolution(s) adopting the SRRE, comments on the final draft from the LTF, and a copy of the Notice of Determination which has been filed with the State Clearinghouse in the Office of Planning and Research as verification of compliance with the CEQA (Public Resources Code Sections 21000 et seq.).

(b) A jurisdiction shall, according to the schedule set forth in PRC Section 41791.5, submit to the Board three (3) copies of its NDFE.

(1) When submitting the NDFE to the Board, the jurisdiction shall include a copy of the public notice(s) for the public hearing(s) on the NDFE, a copy of the resolution(s) adopting the NDFE, and comments on the final draft from the LTF.

(c) A jurisdiction shall submit its HHWE with the CIWMP or the RAIWMP according to the schedule set forth in PRC Section 41791. Any city, or regional agency which is composed of some cities within a single county, may separately submit its HHWE to the Board for approval.

(1) When submitting the HHWE to the Board, the jurisdiction shall include a copy of the public notice(s) for the public hearings on the HHWE, a copy of the resolution(s) adopting its HHWE, comments on the final draft from the LTF, and a copy of the Notice of Determination which has been filed with the State's Clearinghouse in the Office of Planning and Research as verification of compliance with the CEQA (Public Resources Code Sections 21000 et seq.).

(d) The Board's 120 day review period for consideration of approval of a SRRE, HHWE, or NDFE will commence upon determination by the Board that three (3) copies of a SRRE, HHWE, or NDFE and the accompanying documents required by (a), (b) and (c) of this Section have been submitted by the jurisdiction.

(1) Within 30 days of receipt of a SRRE, HHWE, or NDFE for approval, the Board shall indicate to the jurisdiction whether all requirements included in (a), (b), and (c) have been fulfilled. If the Board notifies the jurisdiction that the required documents have not been submitted, the jurisdiction shall submit the remaining required document(s) within 30 days of notification.

Authority cited: *Section 40502, Public Resources Code; Section 15376, Government Code*. Reference: *Sections 21803, 40971, 41750, 41791, 41791.5, 41794, 41800 and*

418002, *Public Resources Code*

Section 18769. Board Approval of SRREs, HHWEs, and NDFEs.

(a) The Board shall approve, conditionally approve, or disapprove the SRRE, HHWE, and NDFE at a public hearing. After receiving testimony from the jurisdiction, the public and the LTF, the Board shall either adopt and prepare written findings approving the SRRE, HHWE, and NDFE or issue a Notice identifying deficiencies in the SRRE, HHWE, and NDFE or amendments to the NDFE.

Authority cited: Section 40502, *Public Resources Code*.

Reference: Sections 41800, 41801, 41802 and *418010 through 41813, Public Resources Code*

Section 18770. Amendment of Revision, and Resubmittal of the Amended or Revised SRRE, HHWE, and NDFE.

(a) If a jurisdiction revises or amends its SRRE, HHWE, or NDFE, the jurisdiction shall revise or amend and submit its SRRE, HHWE, or NDFE pursuant to the requirements of Sections 18765 through 18768 of this Article.

(b) A jurisdiction shall resubmit a revised or amended version of its SRRE, HHWE, or NDFE to the Board either voluntarily according to PRC Section 41770.5 or within 120 days of receipt of a notice identifying the element's deficiencies.

(c) The Board's 60 day review period for consideration of approval of amendments to the NDFE prior to the five year revision of the SRRE will commence upon determination by the Board that three (3) copies of the amendments to the NDFE and the accompanying documents required by Section 18768(b) have been submitted by the jurisdiction.

(1) Within 30 days of receipt of the amendments to the NDFE for approval, the Board shall indicate to the jurisdiction whether all requirements included in Section 18768(b) have been fulfilled. If the Board notifies the jurisdiction that the required documents have not been submitted, the jurisdiction shall submit the remaining required document(s) within 30 days.

Authority cited: *Section 40502, Public Resources Code*.

Reference: *Sections 21083, 40950, 41000, 41300, 41770, 41770.5, 41780, 41781.2, 41790, 41800, 41801, 41802, 41810-41813 and 41822, Public Resources Code*

Section 18770.5. Board Approval of Revised or Amended SRREs, HHWEs, and NDFEs.

(a) If a jurisdiction is required to amend or revise its SRRE, HHWE, or NDFE due to the disapproval of the document, the Board shall approve, conditionally approve, or disapprove the element or amendment, pursuant to *Public Resources Code* Sections 41812 and 41813, within 120 days of receipt of resubmitted elements or within 60 days

of the receipt of NDFE amendments.

(b) The Board shall approve, conditionally approve, or disapprove revised or amended SRREs, HHWEs, and NDFEs at a public hearing. After considering public testimony and input from the LTF, the Board shall either adopt a resolution approving revised or amended SRREs, HHWEs, and NDFEs, or issue a notice identifying deficiencies in the SRREs, HHWEs, and NDFEs. Board approval shall be based on an evaluation of the jurisdiction's implementation of the hierarchy for waste management practices as described in Public Resources Code Section 40051 of the California Integrated Waste Management Act of 1989.

(1) If revised or amended SRREs, HHWEs, and NDFEs are disapproved or conditionally approved, the Board shall send a notice identifying deficiencies within thirty (30) days of making its findings.

(2) Conditional approval or disapproval of a SRRE or HHWE, which has been revised per Section 18772 of this Article, shall require the jurisdiction to reinstitute the process for preparation and approval of the SRREs and HHWEs, beginning in Sections 18762 through 18768.

(3) If revised or amended SRREs, HHWEs, and NDFEs are approved, the Board shall send a copy of the resolution of approval to the jurisdiction within thirty (30) days of making its finding.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40050, 40051, 40052, 41780, 41800, 41802, 41810 through 41813 and 41822, Public Resources Code*

Section 18771. Annual Report: Review and Revision of City, Regional Agency or County SRREs. [Repealed]

Section 18772. Board's Biennial Review of the City, Regional Agency, or County SRRE and HHWE.

(a) In addition to local jurisdiction review of city, regional agency, and county SRREs and HHWEs, at least once every two years, the Board shall conduct an independent review of SRREs and HHWEs. This biennial review will enable the Board to assess each jurisdiction's progress towards meeting the mandated diversion requirements. The Board shall determine if the SRRE and HHWE programs are being implemented, and if jurisdictions are meeting the goals of their SRRE and HHWE.

(b) If the Board finds that a jurisdiction is failing to implement its SRRE and HHWE, and is not making progress towards meeting the requirements of Public Resources Code Sections 41000, 41300, 41500, 41510 or 41780, as applicable, after a public hearing on the matter, the Board shall issue a compliance order for achieving those requirements.

(1) The compliance order shall identify the programs goals of the SRRE and HHWE which are not being implemented or attained by the jurisdiction, or identify areas of the

SRRE and HHWE which require revision. The Board shall also set a date by which the jurisdiction shall meet the mandated requirements.

(2) The Board shall issue the compliance order within 30 days of making its finding of noncompliance.

(c) If a jurisdiction fails to bring its SRRE and HHWE into compliance by the date specified by the Board, the Board shall enforce the compliance order pursuant to Public Resources Code Section 41850.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41000, 41300, 41500, 41510, 41780, 41825, and 41850, Public Resources Code.*

Section 18773. Board Approval of Revised SRRE and HHWE. [Renumbered]

Section 18774. One-Year Time Extension for Meeting Diversion Requirements.

(a) Commencing in 1995, the Board may grant a one-year time extension for meeting the state mandated requirements identified in Public Resources Code Section 41780.

(1) A jurisdiction requesting an extension shall demonstrate, in writing, that it meets the requirements for an extension pursuant to Public Resources Code Section 41820.

(2) Within 45 days of receipt of this request, the Board shall review the adequacy of the application, and determine if the requirements of Public Resources Code Section 41820 are met. Based upon this determination, the Board shall adopt written findings approving or disapproving the jurisdiction's request.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41780 and 41820, Public Resources Code.*

Section 18774.5. Two-Year Time Extension for Meeting Diversion Requirements.

(a) Commencing in 1995, the Board may grant a two-year time extension to a rural jurisdiction, as defined in Public Resources Code Sections 40183 and 40184, for meeting the state mandated diversion requirements in Public Resources Code Section 41780.

(1) A jurisdiction requesting an extension shall demonstrate, in writing, that it meets the requirements for an extension pursuant to Public Resources Code Section 41787.4.

(2) Within 45 days of receipt of a complete request, the Board shall review the adequacy of the application, and determine if the requirements of Public Resources Code Section 41787.4 are met. Based upon this determination, the Board shall adopt written findings approving or disapproving the jurisdiction's request.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40183, 40184, 41780 and 41787.4, Public Resources Code.*

Section 18775. Reduction in Diversion and Planning Requirements.

(a) A rural jurisdiction, as defined in Public Resources Code Sections 40183 and 40184, may petition the Board, at a public hearing, to reduce the planning requirements and diversion requirements specified in Public Resources Code Section 41780. To petition for a reduction, the jurisdiction shall present verification to the Board which indicates that achievement of the requirements is not feasible. To qualify to petition for a reduction in the diversion and planning requirements, a jurisdiction must meet the following:

(1) For a rural city, have a geographic area of less than 3 square miles or a population density of less than 1500 people per square mile and a waste disposal rate of less than 100 cubic yards per day or 60 tons per day.

(2) For the unincorporated area of a rural county, the county's population shall be 200,000 or less.

(3) For a rural regional agency, consist of rural cities and counties, not to exceed more than two rural counties, unless authorized by the Board.

(4) Be located in a rural area. "Rural area" means those counties and cities located in agricultural or mountainous areas of the state and located outside the Department of Finance's Primary Metropolitan Statistical Areas.

(b) Based on information presented at the hearing, the Board may establish reduced diversion requirements, and alternative, but less comprehensive, planning requirements. A petitioner may identify those specific planning requirements from which it wants to be relieved and provide justification for the reduction. Examples of reduced planning requirements could include, but would not be limited to, reduced requirements for solid waste generation studies, and reduced requirements and consolidation of specific component requirements. These reduced planning requirements, if granted, must ensure compliance with Public Resources Code Section 41782.

(c) Rural jurisdictions requesting a reduction in the diversion and planning requirements must include the following information in the reduction petition:

(1) A general description of the existing disposal and diversion systems, including documentation of the types and quantities of waste disposed and diverted. Documentation sources may include, but are not limited to, the following:

(A) Solid Waste Generation or Characterization Studies;

(B) Diversion data from public and private recycling operations;

(C) Current year waste loading information from permitted solid waste facilities used by the jurisdiction;

- (2) Identification of the specific reductions being requested (i.e., diversion or planning requirements or both);
- (3) Documentation of why attainment of mandated diversion and planning requirements is not feasible. Examples of documentation could include, but are not limited to:
 - (A) Evidence from the documentation sources specified in paragraph (c)(1) of this Section;
 - (B) Verification of existing solid waste budget revenues and expenses from the duly authorized designated representative of the jurisdiction;
- (4) The planning or diversion requirements that the jurisdiction feels are achievable, and why.
- (5) Documentation verifying that the rural city or county has implemented those programs identified in Public Resources Code Section 41787(a)(3).
- (6) Documentation verifying that the rural regional agency has implemented those regionwide programs identified in Public Resources Code Section 41787.1(c)(2).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40183, 40184, 40973, 41787, 41787.1, 41787.2 and 41802, Public Resources Code.*

Section 18755.2. Sludge Diversion.

(a) Jurisdictions that wish to claim diversion of the waste type “sludge” shall submit a written request to the Board pursuant to PRC 41781.1. Within 45 days of receipt of a jurisdiction's request, the Board shall notify the jurisdiction in writing whether sufficient information has been included in the request to enable the Board to make findings pursuant to PRC Section 41781.1. Requests that are found by the Board to be incomplete, pursuant to the criterion set forth in this Section, shall be returned to the jurisdiction to correct any inadequacy. The Board shall make the findings required by PRC Section 41781.1 at a public hearing no later than 180 days after receipt of a complete request for sludge diversion credit.

- (1) A request for allowing sludge diversion shall include the following information:
 - (A) Description of the selected diversion alternative(s);
 - (B) Projected annual quantity of sludge waste to be diverted through the year 2000;
 - (C) Documentation that waste type “sludge” has been categorized, quantified, and documented in the applicable “solid waste generation study” as defined in Section 18722 of this chapter;
 - (D) Written certification from the agent(s) responsible for implementing the sludge

diversion alternative that the intended sludge reuse meets all applicable requirements of state and federal law. Information upon which the above certification is based shall be made available to the Board upon request.

(E) Description of monitoring program(s) that are in place or which will be established to insure that the sludge diversion alternative will not pose a threat to public health or the environment.

(F) If the sludge diversion alternative receives a permit or is identified under an existing permit, waste discharge requirements, or has other conditions imposed by one or more of the agencies specified in PRC Section 41787.1, include the name of the agency(s) and identify the agency identification code or number for the permit, waste discharge requirements, or other imposed conditions.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41780 and 41781.1, Public Resources Code.*

Section 18755.4. Use of Excluded Waste Types for Baseline Diversion Credit.

(a) To establish baseline diversion, jurisdictions which have included alternatives for the diversion of agricultural wastes, inert solids, or scrap metals as defined in PRC Section 41781.2(b), or white goods as defined in Article 3 of this Chapter, shall follow the requirements specified in PRC Section 41781.2. Within 60 days of receipt of a jurisdiction's SRRE for final review, the Board shall notify the jurisdiction in writing if there is insufficient information to determine that the criteria specified in PRC Section 41781.2 have been met. This notification shall be based on the criteria specified in PRC Section 41801.5(b).

(b) If the Board disapproves an element for which a jurisdiction has received a notification of excluded wastes pursuant to PRC Section 41801.5(b), the jurisdiction may, concurrent with the procedures specified in Section 18770 of this Article, submit additional information to the Board which substantiates that the criteria specified in PRC Section 41781.2 have been met. Within 60 days of receipt of the additional information, the Board shall determine whether diversion of all or a portion of the excluded waste will be allowed for the purposes of compliance with the diversion requirements of PRC Section 41780.

(c) Based on the Board's determination in subsection (b), the jurisdiction shall update or revise, if necessary, its SRRE to correct any inadequacy and shall resubmit it to the Board within 120 days of the Board's determination. If a jurisdiction is unable to resubmit its updated or revised SRRE within 120 days, the Board may, on a case-by-case basis, extend the deadline for resubmittal. Upon receipt of a resubmitted element, the Board shall follow the procedures specified in Section 18770 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41780, 41781.2, 41801.5, 41811.5, Public Resources Code.*

Article 8. Procedures for Preparing and Revising Siting Elements, Summary Plans, and Countywide and Regional Agency Integrated Waste Management Plans.

Section 18776. Procedures for the Preparation and Submittal of the Siting Element and Summary Plan.

(a) Except as provided in subsection (b)(3)(B) of this Section, each county shall prepare and adopt a Siting Element and a Summary Plan which shall be part of the Countywide Integrated Waste Management Plan (CIWMP), pursuant to Public Resources Code Sections 41700 through 41826.

(b) Where a regional agency has been formed, the following requirements shall apply:

(1) Each regional agency composed of member agencies that do not extend beyond the boundaries of a single county and does include the unincorporated area of the county, shall prepare and submit to the Board a Siting Element and a Summary Plan which shall be part of the CIWMP.

(2) Each regional agency composed of member agencies that do not extend beyond the boundaries of a single county, but does not include the unincorporated area of the county, shall be included in the documents prepared pursuant to subsection (a) of this Section for the preparation and submittal of the Siting Element and Summary Plan.

(3) Each regional agency composed of two or more counties and all cities within those counties, shall prepare and submit to the Board one of the following as part of the Regional Agency Integrated Waste Management Plan (RAIWMP):

(A) a countywide Siting Element and Summary Plan for each county within the regional agency; or

(B) a regionwide Siting Element and Summary Plan for the regional agency.

(4) Each regional agency composed of more than one county, but which does not include all of the cities within those counties, shall be included in the documents prepared pursuant to subsection (a) of this Section for the preparation and submittal of the Siting Element and Summary Plan for each county of the regional agency.

(5) Each regional agency composed of more than one county, and which includes all of the cities and the unincorporated area within at least one of those counties, but not all of the cities within the other county(ies), shall prepare and submit to the Board a Siting Element and Summary Plan as part of the RAIWMP for each county that is wholly encompassed in the regional agency.

(c) Each county and regional agency shall designate the agency responsible for preparing its Siting Element and Summary Plan; and shall notify the Board, in writing, within 30 days of the effective date of this Article or the formation of a regional agency.

Each county and regional agency shall notify the Board, in writing, of any change in the designation of a responsible agency within 30 days of the change.

(d) For the purposes of this Article, “countywide” shall be defined as including the incorporated cities within the county and the unincorporated areas of the county. For purposes of this Article, “county” shall include the Board of Supervisors as the legislative and executive body of county government, and any designated agency responsible for solid waste management.

(e) For the purposes of this Article, “regionwide” shall be defined as including the member agencies of a regional agency. For the purposes of this Article, “regional agency” shall be the governing entity created by a voluntary agreement between cities and/or counties to carry out the mandates of Public Resources Code Section 41780. A city or county which is a party to such an agreement shall be considered a “member agency” of the regional agency. A regional agency may authorize one district, as defined in subdivision (a) of Section 41821.2 of the Public Resources Code, to be included as a member of the regional agency.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40051, 40970-40975, 40977, 41700, 41701, 41702, 41703, 41704, 41750, 41750.1, 41751, 41791 and 41781.2, Public Resources Code.*

Section 18777. Role of the Lock Task Force.

(a) The role of the Local Task Force (LTF) shall be to assist and advise the agency(ies) responsible for preparation of the Siting Element and the Summary Plan. The LTF shall guide the preparation and review of these documents prior to their circulation to reviewing agencies and to the Board, to aid in ensuring that the county or regional agency adequately plans for meeting future solid waste handling and disposal needs.

(b) Within 30 days of its establishment, the LTF shall determine and verify the remaining permitted combined disposal capacity of existing solid waste disposal facilities in the county or regional agency.

(c) If the county and the cities within the county determine that the representation of the current LTF is not adequately addressing the needs of the county, cities, or public, a new LTF may be established. The new LTF membership shall be approved as described in Public Resources Code Section 40950. Within 30 days of the establishment of the new LTF, a membership roster containing the names, phone numbers, and member representation shall be sent to the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40001, 40950, 41751 and 41791, Public Resources Code.*

Section 18778. Public Participation in the Preparation of the Preliminary Draft Siting Element and Summary Plan.

(a) The general public, affected governmental entities, and private industries shall be given an opportunity to comment on the development and implementation of the preliminary Siting Element and Summary Plan at informative meetings and public hearings.

(1) The agency(ies) responsible for preparing the preliminary Siting Element and Summary Plan shall hold at least one public meeting to receive public comment on these preliminary draft documents. Notice of the public meeting shall be provided pursuant to Section 18782 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900 and 41793, Public Resources Code.*

Section 18779. Procedures for the Preparation and Review of the Preliminary Draft Siting

Element and Summary Plan.

(a) Preparation of the Preliminary Draft Siting Element and Summary Plan. Each county and regional agency shall prepare a preliminary draft of its Siting Element and Summary Plan. The agency(ies) responsible for preparation of the preliminary draft(s) shall consider LTF recommendations and public input during the development and revision phases. The preliminary draft(s) shall be sent to the LTF, incorporated cities within the county, member agencies within the regional agency, and the Board.

(b) Review by LTF. The preliminary draft Siting Element and Summary Plan shall be reviewed by the LTF. Within 45 days of receipt of each preliminary draft, the LTF shall send written comments to the Board and to the agency preparing each preliminary draft document.

(c) Review by Incorporated Cities. Within 45 days of receipt of the preliminary draft Siting Element and Summary Plan, each incorporated city within the county and regional agency, shall review each preliminary draft and send written comments to the agency responsible for preparing each preliminary draft document.

(d) Review by Member Agencies. Within 45 days of receipt of the preliminary draft Siting Element and Summary Plan, each member agency within the regional agency, shall review each preliminary draft and send written comments to the agency responsible for preparing each preliminary draft document.

(e) Review by the Board. Three hardcopies of the the preliminary draft Siting Element and Summary Plan or two hardcopies and two magnetically coded disks in a Board approved format shall be submitted to the Board. Within 45 days of receipt of the required copies of the the preliminary draft Siting Element and Summary Plan, the Board shall send written comments on the adequacy of each preliminary draft to meet

the requirements of the Integrated Waste Management Act of 1989, as amended, to the agency responsible for preparing each draft document. A copy of the Board's preliminary draft Siting Element and Summary Plan comments shall be simultaneously sent to the LTF.

(f) Other Agencies. A copy of the the preliminary draft Siting Element and Summary Plan shall be submitted to all associations of governments and to any Local Enforcement Agency located within the boundaries of the county or regional agency. Within 45 days of receipt of the the preliminary draft Siting Element and Summary Plan, each of those agencies receiving a copy may send written comments to the agency responsible for preparing the preliminary draft document.

Authority cited: Section 40502, Public Resources Code.

Reference: *Sections 40900, 40950, 41700, 41701, 41703, 41704, 41710, 41750, 41751 and 41791, Public Resources Code.*

Section 18780. Procedures for the Preparation of the Final Draft Siting Element and Summary Plan.

No later than 105 days after the close of the 45 day review period for the preliminary draft Siting Element and Summary Plan, the agency responsible for preparing each draft document shall respond in writing to each comment received on each preliminary draft, and prepare the final draft Siting Element and Summary Plan.

(a) A copy of the final draft countywide Siting Element and Summary Plan, including a copy of the written responses to comments received, shall be sent to the LTF, each incorporated city in the county, each Local Enforcement Agency (LEA) in the county, applicable associations of governments, and any regional agencies in the county.

(b) A copy of the final draft regionwide Siting Element and Summary Plan, including a copy of the written responses to comments received, shall be sent to each member agency of the regional agency formed pursuant to Section 18776(b)(3) of this chapter, each LTF and LEA in the regional agency, and applicable associations of governments.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40900, 40950, 41700, 41701, 41703, 41704, 41710, 41750, 41751 and 41791, Public Resources Code.*

Section 18781. Local Task Force Review Process.

(a) Within 45 days of receipt of the final draft Siting Element and Summary Plan, the LTF shall provide written comments to the following:

(1) the county or regional agency responsible for the preparation of the final draft Siting Element and Summary Plan;

(2) each incorporated city within the county or each member agency within the regional

agency;

(3) each regional agency within the county; and

(4) the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40950 and 41751, Public Resources Code.*

Section 18782. Notice Requirements for Public Hearings.

(a) At least 30 days in advance of the scheduled public hearing to take comments on the preliminary draft Siting Element and Summary Plan as specified in CCR Section 18778 of this Article, the county shall publish a notice of the public hearing in a local newspaper of general circulation.

(b) At least 30 days in advance of the scheduled public hearing for the purposes of adopting the final draft Siting Element and Summary Plan, as specified in CCR Section 18783 of this Article, each incorporated city within the county and the county or designee shall publish a notice of the public hearing in a local newspaper of general circulation.

(c) At least 30 days in advance of the scheduled public hearing to take comments on the preliminary draft Siting Element and Summary Plan, as specified in CCR Section 18778 of this Article, the regional agency formed pursuant to Section 18776(b)(3) of this Article shall publish a notice of the public hearing in a local newspaper of general circulation.

(d) At least 30 days in advance of the scheduled public hearing for the purpose of adopting the final draft Siting Element and Summary Plan, as specified in CCR Section 18783 of this Article, each member agency within the regional agency and the regional agency shall publish a notice of the public hearing in a local newspaper of general circulation.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41793, Public Resources Code.*

Section 18783. Local Adoption of the Final Draft Siting Element and Summary Plan, and the Countywide and Regional Agency Integrated Waste Management Plans.

(a) Local adoption of the CIWMP will occur when the final draft Siting Element and Summary Plan are adopted by the county and the cities within the county as described in Public Resources Code Section 41721 and 41760. A final draft Siting Element and Summary Plan submitted for local adoption shall be accompanied by environmental documentation verifying compliance with the California Environmental Quality Act (CEQA), pursuant to Public Resources Code Sections 21000 et seq.

(1) Each incorporated city in the county, and the county, shall conduct a public hearing for the purpose of adopting the final draft Siting Element and Summary Plan. After considering all public comments, the county and each city within the county shall, by resolution, either approve or disapprove the final draft Siting Element and Summary Plan. Failure by a city to take action on the Siting Element or Summary Plan shall be deemed an approval of the Siting Plan or Summary Plan by that city.

(2) If the final draft Siting Element and Summary Plan are not approved by the county and the cities within the county, pursuant to PRC Sections 41721 and 41760, then the county shall revise the deficient areas within 90 days of the close of the local jurisdiction review period specified in PRC Section 41721 and recirculate them for local approval, pursuant to Sections 18780 through 18785 of this Article. These revised documents shall be approved as described in Public Resources Code Sections 41721 and 41760.

(b) Local adoption of the RAIWMP for a regional agency preparing documents pursuant to Section 18776(b)(3)(A) and (5) of this Article will occur when the final draft Siting Element and Summary Plan from each county that makes up the regional agency have been adopted by the county and cities within the county. These revised documents shall be approved as described in Public Resources Code Sections 41721 and 41760. A final draft Siting Element and Summary Plan shall be accompanied by environmental documentation verifying compliance with CEQA, pursuant to Public Resources Code Sections 21000 et seq.

(1) Each incorporated city in the county, and each county, shall conduct a public hearing for the purpose of adopting the final draft Siting Element and Summary Plan. After considering all public comments, each county and each city within the county shall, by resolution, either approve or disapprove the final draft Siting Element and Summary Plan.

(2) If the final draft Siting Element and Summary Plan are not approved by each county and the cities within each county as described in Public Resources Code Sections 41721 and 41760, then the county responsible for preparing the final draft Siting Element and Summary Plan shall revise the deficient areas within 90 days of the close of the local jurisdiction review period specified in PRC Section 41721 and recirculate them for local approval, pursuant to Sections 18780 through 18785 of this Article.

(c) Local adoption of the RAIWMP for a regional agency preparing documents pursuant to Section 18776(b)(3)(B) of this Article will occur when the final draft Siting Element and Summary Plan have been approved by the regional agency and by a majority of the member agencies within the regional agency except in those regional agencies which have only two member agencies, in which case the Siting Element and Summary Plan are subject to approval of the member agency which contains a majority of the population of the member agencies of the county. Each member agency shall act upon the Siting Element and the Summary Plan within 90 days after receipt of the documents. If a member agency fails to act upon the Siting Element and Summary Plan within 90 days after receipt of the element and plan, the member agency shall be deemed to have approved the Siting Element and Summary Plan as submitted. A final draft Siting

Element and Summary Plan submitted for local adoption shall be accompanied by environmental documentation verifying compliance with CEQA, pursuant to Public Resources Code Sections 21000 et seq.

(1) Each member agency, and the regional agency, shall conduct a public hearing for the purpose of adopting the final draft Siting Element and Summary Plan. After considering all public comments, the regional agency and each member agency within the regional agency shall, by resolution, either approve or disapprove the final draft Siting Element and Summary Plan.

(2) If the final draft Siting Element and Summary Plan are not approved as provided in subsection (c) of this Section, then the regional agency responsible for preparing the final draft Siting Element and Summary Plan shall revise the deficient areas within 90 days of the close of the local jurisdiction review period specified in PRC Section 41721 and recirculate them for local approval, pursuant to Sections 18780 through 18785 of this Article. These revised documents shall be approved as described in subsection (c) above.

(d) Local approval of the RAIWMP for a regional agency formed pursuant to Section 18776(b)(4) of this Article will occur when the final draft Siting Element and Summary Plan for each county where the regional agency exists have been adopted by the cities and each county. The final draft Siting Element and Summary Plan shall be approved as described in Public Resources Code Sections 41721 and 41760. A final draft Siting Element and Summary Plan submitted for local adoption shall be accompanied by environmental documentation verifying compliance with CEQA, pursuant to Public Resources Code Sections 21000 et seq.

(1) Each incorporated city in each county, and each county, shall conduct a public hearing for the purpose of adopting the final draft Siting Element and Summary Plan. After considering all public comments, each county and city within each county shall, by resolution, either approve or disapprove the final draft Siting Element and Summary Plan.

(2) If the final draft Siting Element and Summary Plan are not approved by each county and cities within each county, then each county shall revise the deficient areas within 90 days of the close of the local jurisdiction review period specified in PRC Section 41721 of this Article and recirculate them for local approval, pursuant to Sections 18780 through 18785 of this Article. These documents shall be approved as described in Public Resources Code Section 41721 and 41760. These revised documents shall be approved as described in this subsection (d) above.

(e) If a jurisdiction or member agency disapproves the Siting Element or the Summary Plan, the jurisdiction or member agency shall give written notification to the LTF, the County Board of Supervisors and the Board of the deficient areas in the Siting Element or the Summary Plan within 30 days of disapproval.

Authority cited: *Section 40502, Public Resources Code.*

Reference: Sections 40950, 40971, 41700, 41720, 41721, 41751 and 41760, Public Resources Code.

Section 18784. Submittal of Countywide and Regional Agency Integrated Waste Management Plan to the Board for Approval.

(a) Within 30 days of the local adoption of the CIWMP, as provided in Section 18783 of this Article, the county shall submit, unless any of these documents have been submitted pursuant to the requirements of this chapter, three hardcopies, or two hardcopies and two magnetically coded disks in a format approved by Board staff, of the following to the Board:

(1) for a county with no regional agency within its boundaries, a CIWMP consisting of the Source Reduction and Recycling Elements (SRRE's), Household Hazardous Waste Elements (HHWE's), and Nondisposal Facility Elements (NDFE's) for the county and each city within the county, and the Siting Element and Summary Plan.

(2) for a county which contains one or more regional agencies the CIWMP shall include:

(A) a SRRE, HHWE, and NDFE for each city that is not a member agency of the regional agency and for the county if it is not a member agency of the regional agency;

(B) a SRRE, HHWE, and NDFE for each city that is a member agency of the regional agency and for the county if it is a member agency of the regional agency, or the SRRE, HHWE, and NDFE for the regional agency, if the regional agency has elected to prepare one or more of these documents as a regional agency;

(C) a countywide Siting Element and Summary Plan.

(3) a copy of the agreement forming a regional agency pursuant to Public Resources Code Section 40975;

(4) a copy of each jurisdiction's resolution adopting its SRRE, HHWE, and NDFE, and approving or disapproving the Siting Element and Summary Plan;

(5) a copy of the public notices for each jurisdiction's public hearings on the SRRE, HHWE, NDFE, Siting Element and Summary Plan;

(6) a copy of the Notice of Determination, for the project's CEQA document(s), which has been filed with the State Clearinghouse in the Office of Planning and Research;

(7) a tabulation showing that the Siting Element and Summary Plan were approved by the county and the cities within the county in accordance with Sections 41721 and 41760 of the Public Resources Code.

(b) Within 30 days of the local adoption of the RAIWMP, as provided in Section 18783 of this Article, the regional agency shall submit, unless these documents have already been submitted pursuant to the requirements of this chapter, three hardcopies, or two

hardcopies and two magnetically coded disks in a format approved by Board staff, of the following to the Board:

(1) for a regional agency composed of two or more counties and all of the cities within those counties, the RAIWMP shall include either:

(A) a SRRE, HHWE, and NDFE for each city and county which are member agencies of the regional agency and the Siting Element and Summary Plan for each county; or

(B) a SRRE, HHWE, NDFE, Siting Element, and Summary Plan for the regional agency.

(2) for a regional agency composed of more than one county, but which does not encompass all of the cities within those counties, a RAIWMP consisting of a SRRE and HHWE, and a NDFE for the regional agency;

(3) for a regional agency composed of more than one county, and which includes all of the cities and the unincorporated area within at least one of those counties, but not all of the cities within the other county(ies), the RAIWMP shall include a SRRE and HHWE for the regional agency, a NDFE for each city and the county that is a member agency of the regional agency, and a Siting Element and Summary Plan for each county that is wholly encompassed by the regional agency.

(4) a copy of the agreement forming a regional agency pursuant to Public Resources Code Section 40975;

(5) a copy of each jurisdiction's resolution adopting its SRRE, HHWE, and approving or disapproving the Siting Element and Summary Plan;

(6) a copy of the public notices for each jurisdiction's public hearing on the applicable preliminary draft and final draft SRRE, HHWE, and Siting Element and Summary Plan;

(7) a copy of the Notice of Determination, for the project's CEQA document(s), which has been filed with the State Clearinghouse in the Office of Planning and Research;

(8) a tabulation showing that the Siting Element and Summary Plan were approved by the county and the cities within the county in accordance with Sections 41721 and 47160 of the Public Resources Code or by each member agency of a regional agency in accordance with Section 18783(c) of this Article.

(c) The Board's 120 day review period for consideration of approval of the Siting Element and the Summary Plan will commence upon determination by the Board that the accompanying documents required in Section 18784 of this Article have been submitted and are included or referenced by the submitting jurisdiction.

(1) Within 30 days of receipt of the Siting Element and the Summary Plan submitted for approval, the Board shall indicate to the submitting jurisdiction whether all requirements in Section 18784 of this Article have been fulfilled. If the jurisdiction is notified that the required documents have not been submitted, the jurisdiction shall submit the remaining

document(s) within 30 days of notification.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40975, 41721, 41760, 41790, 41791, 41793, Public Resources Code.*

Section 18785. Board Approval of Countywide and Regional Agency Integrated Waste Management Plan.

(a) Following submittal of a locally adopted CIWMP or RAIWMP to the Board, the Board shall have at least 90 days, but not more than 120 days, with a median of 105 days, to review and act upon the CIWMP or RAIWMP. The Board, at a public hearing, shall determine whether the CIWMP or RAIWMP meets the requirements of the California Integrated Waste Management Act of 1989 as amended. After considering public testimony, input from the LTF, and written comments, the Board shall approve, conditionally approve, or disapprove the CIWMP or RAIWMP. The Board shall either adopt a resolution approving or conditionally approving the CIWMP or RAIWMP, or issue a Notice identifying deficiencies in the CIWMP or RAIWMP.

(b) Within 30 days of approval, conditional approval, or disapproval of a CIWMP or RAIWP, the Board will send a copy of the resolution of approval or conditional approval, or a Notice identifying the deficiencies to the jurisdiction(s) responsible for preparation of the CIWMP or RAIWMP and any Element containing deficiencies.

(1) In a Notice of Deficiency, the Board shall identify the deficient areas in a CIWMP or RAIWMP and provide a written analysis of why these areas are deficient and provide recommendations to correct deficient areas.

Authority cited: *Section 40502, Public Resources Code; and Section 15736, Government Code.*

Reference: *Sections 41790, 41800, 41801 and 41810, Public Resources Code.*

Section 18786. Resubmittal of Countywide and Regional Agency Integrated Waste Management Plans or Designated Sections of Countywide and Regional Agency Integrated Waste Management Plans After a Finding of Deficiency.

A county or regional agency shall modify and resubmit the modified Sections of the CIWMP or RAIWMP which were identified in the Notice of Deficiency, in accordance with the requirements of Public Resources Code Sections 41811, 41811.5, and 41812 and with Sections 18780 through 18784 of this Article. If a county or regional agency is unable to submit a modified CIWMP or RAIWMP within 120 days of receipt of the Notice of Deficiency, then within 45 days of receipt of the Notice of Deficiency, a county or regional agency shall submit a modification schedule and an explanation of the need for extension to the Board.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41790, 41810, 41811, 41812 and 41813, Public Resources Code.*

**Section 18787. Annual Review of Progress Towards Solid Waste Disposal Goals.
[Repealed]**

Section 18788. Five-Year Review and Revision of the Countywide or Regional Agency Integrated Waste Management Plan.

(a) CIWMP or RAIWMP Review. Prior to the fifth anniversary of Board approval of a CIWMP or RAIWMP, or its most recent revision, the LTF shall complete a review of the CIWMP or RAIWMP in accordance with Public Resources Code Sections 40051, 40052, and 41822, to assure that the county's and regional agency's waste management practices remains consistent with the hierarchy of waste management practices defined in Public Resources Code, Section 40051.

(1) Prior to the fifth anniversary of Board approval of the CIWMP or RAIWMP, the LTF shall submit written comments on areas of the CIWMP or RAIWMP which require revision, if any, to the county or regional agency and the Board.

(2) Within 45 days of receiving LTF comments, the county or regional agency shall determine if a revision is necessary, and notify the LTF and the Board of its findings in a CIWMP or RAIWMP Review Report.

(3) When preparing the CIWMP or RAIWMP Review Report the county or regional agency shall address at least the following:

(A) changes in demographics in the county or regional agency;

(B) changes in quantities of waste within the county or regional agency;

(C) changes in funding sources for administration of the Siting Element and Summary Plan;

(D) changes in administrative responsibilities;

(E) programs that were scheduled to be implemented but were not, a statement as to why they were not implemented, the progress of programs that were implemented, a statement as to whether programs are meeting their goals, and if not what contingency measures are being enacted to ensure compliance with Public Resources Code Section 41751;

(F) changes in permitted disposal capacity, and quantities of waste disposed of in the county or regional agency;

(G) changes in available markets for recyclable materials; and

(H) changes in the implementation schedule.

(4) Within 90 days of receipt of the CIWMP or RAIWMP Review Report, the Board shall

review the county's or regional agency's findings, and at a public hearing, approve or disapprove the county's or regional agency's findings. Within 30 days of its action, the Board shall send a copy of its resolution, approving or disapproving the county's or regional agency's findings, to the LTF and the county or regional agency. If the Board has identified additional areas that require revision, the Board shall identify those areas in its resolution.

(b) CIWMP or RAIWMP Revision. If a revision is necessary the county or regional agency shall submit a CIWMP or RAIWMP revision schedule to the Board.

(1) The county or regional agency shall revise the CIWMP or RAIWMP in the areas noted as deficient in the CIWMP or RAIWMP Review Report and/or as identified by the Board.

(2) The county or regional agency shall revise and resubmit its CIWMP or RAIWMP pursuant to the requirements of Sections 18780 through 18784 of this Article.

(c) The county shall submit all revisions of its CIWMP to the Board for approval. The revised CIWMP shall be reviewed pursuant to the requirements of Sections 18784 through 18786 of this Article.

(d) The regional agency shall submit all revisions of its RAIWMP to the Board for approval. The revised RAIWMP shall be reviewed pursuant to the requirements of Sections 18784 through 18786 of this Article.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40051, 40052, 41750, 41760, 41770, 41822, Public Resources Code.*

Section 18789. Board Approval of the Plan Revision. [Repealed]

Section 18790. Resubmittal of a Deficient Plan Revision. [Repealed]

Section 18791. Resubmittal of a Deficient Plan Revision. [Repealed]

Article 9.0 Annual Report Regulations

Section 18794.0. General Requirements and Due Dates.

(a) Each jurisdiction shall submit an annual report that discusses the progress achieved in implementing the programs and/or facilities described in a jurisdiction's Planning Documents. Planning Documents include the Source Reduction and Recycling Element (SRRE), Household Hazardous Waste Element (HHWE), Nondisposal Facility Element (NDFE), Siting Element (SE), Summary Plan, or Petition for Reduction.

(b) The annual report shall also discuss the progress a jurisdiction has made in achieving the disposal reduction goals required by Public Resources Code (PRC) section 41780.

(c) A jurisdiction includes a City, County, City and County, or Regional Agency, as defined in Section 40415 of the Public Resources Code.

(d) The annual report will serve as a basis for determining if any of the Planning Documents need to be revised to reflect new or changed local and regional solid waste management programs, facilities, and other conditions, as well as to determine compliance with the mandated disposal reduction goals.

(e) Jurisdictions shall submit the annual report as follows:

(1) Jurisdictions with Planning Documents approved or conditionally approved prior to January 1, 1996, shall submit their first annual report on these approved documents by August 1, 1996.

(2) Jurisdictions that did not have any Planning Documents approved or conditionally approved prior to January 1, 1996 shall submit their first annual report by August 1 of the year following Department approval or conditional approval of a Planning Document.

(3) Jurisdictions shall submit subsequent annual reports every August 1 thereafter, that address all of a jurisdiction's Planning Documents that have been approved or conditionally approved by the Department either during, or prior to, the previous calendar year.

(f) If a jurisdiction includes information on disaster wastes in its annual report, "disaster" shall mean a natural catastrophe such as an earthquake, fire, flood, landslide, or volcanic eruption, or regardless of cause, any explosion, fire, or flood. In order to be considered a disaster, a local emergency or a state of emergency shall have been duly proclaimed.

(g)(1) For the purposes of this Article, "district" means a community service district that provides solid waste handling services or implements source reduction and recycling programs. Commencing on July 1, 2001, a "district" also includes a sanitary district that provides solid waste handling services or implements source reduction and recycling programs.

(2) Each district shall provide the city, county, or regional agency in which it is located, information on the programs implemented by the district and the amount of waste disposed and diverted within the district.

(3) This information shall be supplied to the city, county, or regional agency so that it may be incorporated into the annual report.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40050, 40051, 40052, 40901, 41000, 41300, 41500, 41510, 41700, 41730, 41731, 41750, 41750.1, 41751, 41780, 41801.5, 41821, 41821.2 and 41850, Public Resources Code.

Section 18794.1. Goal Achievement Calculations.

(a) A jurisdiction's annual report shall include the calculations described in Section 41780.05 of the Public Resources Code to measure achievement of the disposal reduction requirements of PRC section 41780.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 41780, 41780.1, 41780.2, 41781, 41782, 41787.2, 41821, 41821.5 and 41850, Public Resources Code.

Section 18794.2. Reporting Requirements for Calculations.

(a) Jurisdictions who were incorporated prior to January 1, 1995 and who submit their first annual report in 1997 or later, shall include their disposal reduction calculations for 1995, in addition to their disposal reduction calculations for the current reporting year.

(b) If a jurisdiction is a member of a Regional Agency, then a single combined report of the information shall be made for all the members of the Regional Agency.

(c) The Department shall calculate jurisdiction disposal using information provided by the Recycling and Disposal Reporting System specified in sections 18815.1-18815.13 of this chapter by determining the tons of solid waste disposed from January 1 to December 31 in each year. This amount shall be the sum of solid waste from the jurisdiction, including:

(1) the tons disposed at each permitted landfill,

(2) the tons disposed at each engineered municipal solid waste conversion facility as defined in section 40131.2 of the Public Resources Code,

(3) the tons that underwent transformation at a permitted solid waste facility in excess of 10% of a jurisdiction's adjusted base-year generation, and pursuant to section 41783 of the Public Resources Code,

(4) the tons of green material alternative daily cover used at permitted landfills pursuant to section 41781.3(a)(2)(A) of the Public Resources Code as of January 1, 2020,

(5) potential alternative daily cover, alternative intermediate cover, and other beneficial reuse material which is not used in accordance with the conditions set forth in sections 20686, 20690, 20700, and 20695 of Title 27 of the California Code of Regulations, unless it is otherwise diverted, and

(6) the tons of solid waste and green material potential beneficial reuse exported from California, minus any portion of the waste that the jurisdiction proves was diverted.

(d) In addition to the information required by this section, a jurisdiction may also submit in its annual report any other information it wishes the Department to consider relating to the base-year waste generation tonnage amounts, adjustment factors, or

calculations. The additional information may include a discussion of why the disposal rate calculation may not fully represent a jurisdiction's local conditions, and what additional adjustments would be needed.

(e) If a jurisdiction made an adjustment in its reporting year disposal tonnages because of a regional medical waste treatment facility or regional diversion facility located within its borders, it shall provide the Department with documentation demonstrating it meets the criteria specified in PRC section 41782 for making such an adjustment.

(f) If a jurisdiction made an adjustment in its reporting year disposal tonnages because of a disaster, it shall provide the Department with documentation demonstrating that:

(1) the tonnages subtracted resulted from the disaster;

(2) the jurisdiction implemented to the extent feasible, diversion programs to maximize diversion through reuse, recycling, or composting of disaster-related solid waste; and,

(3) the tonnages subtracted are consistent with the additional tonnages reported by the facilities where the solid waste was disposed.

(g) A jurisdiction may also provide additional information related to the tons of waste disposed in California including waste assigned to them pursuant to section 18815.9(b)(2)(B). A jurisdiction may also provide additional information related to the tons of solid waste or green material potential beneficial reuse exported from California that was reported in the Recycling and Disposal Reporting System, and was later diverted. The jurisdiction shall describe how this additional information was obtained.

(h) If a jurisdiction's disposal reduction goal has not been met, then a jurisdiction shall discuss in its annual report what possible problems may have prevented it from reaching its goal. Problems may include, but are not limited to:

(1) calculations of the equivalent per capita disposal rate;

(2) disposal reporting problems;

(3) changes in a jurisdiction's waste stream beyond the jurisdiction's control; or

(4) changes in the overall waste management system that may hinder achievement of the disposal reduction goals.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 41780, 41780.1, 41782, 41813, 41821, 41821.5 and 41850, Public Resources Code.

Section 18794.3. SRRE/NDFE and HHWE Implementation.

(a) SRRE/NDFE Annual Report Requirements. Each jurisdiction shall monitor its reduction of solid waste and summarize in the annual report its progress toward achieving the mandated disposal reduction goals identified in PRC Section 41780. The information provided will serve as a basis for determining whether a revision of a SRRE

is needed. The SRRE/NDFE Section of the annual report shall address at least the following:

- (1) Implementation status of selected programs;
- (2) If any selected programs were not implemented, provide an explanation;
- (3) Contingency programs or other measures that have been, or will be, implemented to help achieve the disposal reduction goals;
- (4) Changes to selected programs, implementation schedules, or funding sources;
- (5) Efforts made to inform the public of selected programs and facilities, and to increase public participation;
- (6) Any barriers that may prevent achievement of the disposal reduction goals;
- (7) Any changes in the use of nondisposal facilities, both existing or planned;
- (8) If a jurisdiction's calculations show its disposal reduction goal has not been met, then a jurisdiction may include an expanded discussion on items 1 through 7 above;
- (9) Quantities and types of waste diverted through recycling and composting programs directly funded or operated by the jurisdiction including, but not limited to, contracts or franchises;
- (10) If a jurisdiction funds or operates a program through contracts or franchises and the agreement does not contain program monitoring and reporting requirements providing the information required by (9) above, the jurisdiction may include this information at the time of the contract or franchise agreement renewal, or at the jurisdiction's five year revision, whichever comes first;
- (11) The adequacy of, or the need to revise, the Solid Waste Generation Study or any other Component of the SRRE; and
- (12) If a jurisdiction determines that a revision of the SRRE is necessary, the annual report shall contain a timetable for making the necessary revisions.

(b) HHWE Annual Report Requirements. Each jurisdiction shall summarize in the annual report its progress toward reducing or eliminating household hazardous waste (HHW). The information provided will serve as a basis for determining whether a revision of a HHWE is needed. The HHWE Section in the annual report shall address at least the following:

- (1) Implementation status of selected programs;
- (2) An explanation why any selected programs were not implemented;
- (3) An explanation why any programs that were implemented did not achieve expected

reduction of HHW disposal;

(4) Contingency programs or measures that have been or will be implemented to increase efforts or effectiveness in achieving reduction or elimination of HHW disposal;

(5) Changes to selected programs, implementation schedules, or funding sources;

(6) Efforts made to inform the public of HHW collection events or facilities;

(7) Any barriers that may prevent the reduction or elimination of HHW disposal;

(8) The adequacy of, or the need to revise, the HHWE; and

(9) If a jurisdiction determines that a revision of the HHWE is necessary, the annual report shall contain a timetable for making the necessary revisions.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40901, 40973, 41000, 41032, 41033, 41300, 41500, 41780, 41787, 41787.1, 41787.2, 41802 and 41821, Public Resources Code.*

Section 18794.4. Siting Element and Summary Plan Status.

(a) Each county or regional agency shall include in its annual report a discussion on the status of its Siting Element and Summary Plan. The information provided shall serve as a basis for determining if the Siting Element and/or Summary Plan should be revised.

(b) The Siting Element Section in the annual report shall address at least the following:

(1) Any changes in the remaining disposal capacity description provided pursuant to Section 18755.5 since the Siting Element was adopted;

(2) Whether the county or regional agency has maintained, or has a strategy which provides for the maintenance of, 15 years of disposal capacity;

(3) The adequacy of, or the need to revise, the Siting Element; and

(4) If a jurisdiction determines that a revision of the Siting Element is necessary, the annual report shall contain a timetable for making the necessary revisions.

(c) The Summary Plan Section in the annual report shall address at least the following:

(1) Any changes in the financing of countywide or regional programs and/or facilities and why these changes occurred;

(2) Whether new cities within the county or regional agency have incorporated since the adoption of the Summary Plan. For each new city, the city's name, date of incorporation, and population at time of incorporation shall be provided; and

(3) If a jurisdiction determines that a revision of the Summary Plan is necessary, the annual report shall contain a timetable for making the necessary revisions.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40051, 40052, 40703, 41701, 41271, 41271.5, 41751, 41770 and 41821, Public Resources Code.*

Section 18794.5. Status of Qualifying Conditions for Board-Approved Petitions for Reduction.

(a) Jurisdictions with a Board-approved petition for reduction shall address the following in their annual reports:

(1) Whether the jurisdiction still qualifies to petition for the reduction as discussed in Section 18775(a);

(2) Whether the reduction is still needed, based on the Board-approved petition and items addressed in Section 18775(c).

(b) The Board may, upon review of the annual report, find that a revision or revocation of the reduction is necessary. The Board shall present any such findings at a public hearing.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 40973, 41787, 41787.1, 41802 and 41821, Public Resources Code.*

Section 18794.6. Addressing an Area-of-Concern, or Conditionally Approved Planning Documents.

(a) Reporting Requirements for Areas-of-Concern. Each jurisdiction with a Planning Document for which the Board identified an area-of-concern at the time it was approved or conditionally approved, may address the concern in its annual report. Once the concern has been adequately addressed by the jurisdiction, it no longer needs to be addressed in subsequent annual reports. If a jurisdiction does not adequately address an area of concern in the annual report, the Board may consider it during its biennial review pursuant to PRC Section 41825.

(b) Reporting Requirements for Conditional Approvals. Each jurisdiction with a Planning Document that was conditionally approved by the Board shall discuss how it has met the conditions in its annual report. The conditions are listed in the Resolution in which the Board conditionally approved the planning document. The Resolution is attached to the Notification letter sent to a jurisdiction pursuant to PRC Section 41810. Once the conditions have been adequately addressed, they no longer need to be addressed in subsequent annual reports.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41801.5, 41802, 41810 and 41821, Public Resources Code.*

Article 9.1. Adjustment Method for Calculating Changes in Waste Generation Tonnage

Section 18797.0. Scope and Purpose.

(a) The primary purpose of this Article is to implement Section 41780.1(c) of the Public Resources Code.

(b) The adjustment method described in this Article has been selected by the Board as the standard method that shall be used to adjust the base-year generation tonnage amount. The resulting adjusted base-year generation tonnage number is an estimate of the generation tonnage in the reporting-year. This number will be used to calculate a jurisdiction's maximum allowable disposal amount, pursuant to Section 18794.1(c).

Authority cited: *Sections 40502 and 41780.1, Public Resources Code.*

Reference: *Sections 41780.1, 41780.2, 41781, and 41821, Public Resources Code.*

Section 18797.1. Definitions.

(a) For the purposes of this Article, the following terms have the meanings given below.

(1) "Adjustment Factors" means population, employment, taxable sales, and inflation numbers as used in the adjustment method.

(2) "Adjustment Method" means the method approved by the Board for jurisdictions to use in adjusting their base-year generation tonnage to account for changes in population, employment, taxable sales, and inflation occurring between the base-year and the reporting-year as described in this Article.

(3) "Base-Year Generation" means the combined base-year tonnage amount of disposed and diverted wastes, as approved by the Board pursuant to Section 41801 of the Public Resources Code.

(4) "Industry Employment" means employment by place of work.

(5) "Jurisdiction" means a city, unincorporated county, city and county, or regional agency with responsibility for waste management. This definition is in addition to the definition found in Section 18720(a)(33).

(6) "Labor Force Employment" means employment by place of residence.

(7) "Non-Residential Solid Waste" means all solid waste other than residential solid waste, including self-haul waste from non-residential sources.

(8) "Region" means an entity formed pursuant to Sections 40970 through 40975 of the Public Resources Code. This definition supersedes the definition found in Section 18720(a)(57).

(9) "Reporting-Year Generation" means the estimate of a jurisdiction's combined tonnage of disposed and diverted wastes for any calendar year following the base-year. The reporting-year generation estimate is derived by using the adjustment method set forth in this Article to adjust the base-year generation tonnage amount.

(10) "Residential Solid Waste" means all solid waste originating from single-family and multi-family dwellings, including self-haul wastes from residential sources. This definition is in addition to the definition in Section 18720(a)(59).

Authority cited: *Section 40502 and 41780.1, Public Resources Code.*

Reference: *Sections 41780.1, 41780.2, 41781, and 41821, Public Resources Code.*

Section 18797.2. Adjustment Factor Sources.

A jurisdiction shall perform the adjustment method using adjustment factor sources as follows:

(a) A jurisdiction shall use the following sources for factor numbers for any given calendar year:

(1) Employment as reported by the California Employment Development Department:

countywide labor force employment, or

countywide industry employment, or

countywide industry employment for the non-residential adjustment factor, and
countywide labor force employment for the residential adjustment factor.

(2) Population as reported by the California Department of Finance:

countywide population, or

jurisdiction population.

(3) Inflation as represented by the Consumer Price Index reported by the California Department of Industrial Relations:

statewide Consumer Price Index, or

metropolitan area Consumer Price Index.

(4) Taxable Sales as reported by the California State Board of Equalization:

countywide Taxable Sales, or

jurisdiction Taxable Sales.

(b) Notwithstanding subdivision (a) of this Section, if a jurisdiction believes that any of

the adjustment factor numbers do not validly represent the jurisdiction's population and/or economy, a jurisdiction may instead perform the adjustment method using one or more countywide or jurisdiction factor numbers from other sources, if the following conditions are met:

(1) A jurisdiction shall select a scientifically reliable, third party source for each of the jurisdiction-supplied adjustment factor numbers used. Possible sources include, but are not limited to, studies by the U.S. Census, State Agencies, Regional Councils of Government, Municipal Chambers of Commerce, accredited Universities or Colleges, or professionally recognized consultants in the field of economics, geography, or demographics. A jurisdiction shall submit a copy of each source document used to the Board at the time of the annual report.

(2) For each factor, the jurisdiction shall use the same source for both the base-year factor number and the reporting-year factor number when performing the calculations. If a base year factor number for employment is not available, and the factor number for the year following the base-year reflects increased or no employment growth since the base-year, then the factor number for the year following the base-year may be used for the base-year factor number. A jurisdiction shall substantiate increased or no employment growth since the base-year with corroborative data from at least one scientifically reliable, third party source as described in subdivision (b)(1) of this Section. A jurisdiction shall submit a copy of each source document used for the corroborative data to the Board at the time of the annual report.

(3) Board approval of the use of alternative sources. In reviewing alternative sources, the Board shall consider any jurisdiction-supplied adjustment factor numbers and sources to determine if they meet the requirements of subdivisions (b)(1) and (b)(2) of this Section. If the Board disapproves any adjustment factor numbers and/or sources, a jurisdiction may choose other factor numbers and/or sources for Board consideration.

Authority cited: *Section 40502 and 41780.1, Public Resources Code.*

Reference: *Sections 41780.1, 41780.2, 41781, and 41821, Public Resources Code.*

Section 18797.3. Adjustment Method Calculation.

(a) If a jurisdiction is a region, then the tonnage amounts, and adjustment factor numbers for all cities and unincorporated counties included in the region's regional agreement, shall be summed before calculating the single adjustment for the region's base-year generation.

(b) Before calculating the adjustment, a jurisdiction shall separate the base-year generation tonnage by source into residential and non-residential amounts. If a jurisdiction cannot derive the actual residential and non-residential amounts from its records, the jurisdiction may make a best estimate of how much of their base-year generation is from residential sources and how much is from non-residential sources.

(c) When calculating the values in subdivision (e) of this Section, and calculating the adjusted base-year generation tonnage in subdivision (f) of this Section, a jurisdiction

shall use the values defined below:

Term	Value
RWGB	Base-Year Residential Waste Generation in Tons
NRWGB	Base-Year Non-Residential Waste Generation in Tons
PR	Reporting-Year Population in Persons
PB	Base-Year Population in Persons
ERif	Reporting-Year Labor Force Employment in Jobs
ERin	Reporting-Year Industry Employment in Jobs
EBif	Base-Year Labor Force Employment in Jobs
EBin	Base-Year Industry Employment in Jobs
TR	Reporting-Year Taxable Sales in Dollars
TB	Base-Year Taxable Sales in Dollars
CPIR	Reporting-Year Consumer Price Index
CPIB	Base-Year Consumer Price Index

For example, in the hypothetical jurisdiction of “Surfcity”:

Term	Value
RWGB	15,000 tons
NRWGB	20,000 tons
PR	12,000 persons
PB	10,000 persons
ERIf	6,000 jobs
EBIf	5,500 jobs
TR	3,100,000 dollars
TB	3,000,000 dollars
CPIR	154.0
CPIB	130.7

(d) Before calculating values other than those described in Section 18797.2(b) for the equations in subdivision (e) of this Section, a jurisdiction shall select one of three countywide employment factor number sets:

- (1) Labor force employment for calculating the non-residential adjustment factor and the residential adjustment factor; or
- (2) Industry employment for calculating the non-residential adjustment factor and the residential adjustment factor, or
- (3) Industry employment for calculating the non-residential adjustment factor and labor force employment for calculating the residential adjustment factor.

(e) Before performing the adjustment calculation, a jurisdiction shall calculate values for the four equations below:

IM = Inflation Multiplier

$IM = CPIB / CPIR$

Example: $\frac{130.7}{154.0}$

IM = .08.487

CTR = Corrected Reporting - Year Taxable Sales in Dollars

TM x IM

Example: $3,000,000 \times 0.8487$

$CTR=2,630,970$

NRAF = Non-Residential Adjustment Factor

$(EREB) \pm (CTR/TB)^2$

Example 3a: Use Labor Force (LF) Employment in NRAF

$NRAFLF = (EREB) \pm (CTR/TB)^2$

$NRAFLF = 0.984$

Example 3b: Use Industry Employment (IN) in NRAF

$NRAFIN = (4,500/3,950) \pm (2,630,970/3,000,000)/2$

$NRAFIN = 1.008$

RAF = Residential Adjustment Factor:

$(PR/PB) + NARF/2$

Example 4a: Use NARFLF

$(PR/PB) + NARF/2$

$NRAFLF = 1.092$

Example 4b: Use NRAFIN

$NRAFIN = (12,000/10,000) + 1.008/2$

$NRAFLF = 1.104$

(f) Using the variables defined in subdivisions (c) and (e) of this Section, a jurisdiction shall calculate the adjusted base-year generation tonnage using the equation below:

ERYG = Estimated Reporting-Year Generation:

$(RWG_b \times RAF) + (NRWG_b \times NRAF)$

Example 1: Use RAF_{lf} and NRAF_{lf}

$(15,000 \times 1.092) + (20,000 \times 0.984)$

ERYG = 36,060 tons

Example 2: Use RAF_{in} and NRAF_{in}

$(RWG_b \times RAF_{in}) + (NRWG_b \times NRA_{Fin})$

$(15,000 \times 1.104) + (20,000 \times 1.008)$

ERYG = 36,720 tons

Example 3: Use RAF_{if} and NRA_{Fin}

$(RWG_b \times RAF_{if}) + (NRWG_b \times NRA_{Fin})$

$(15,000 \times 1.092) + (20,000 \times 1.008)$

ERYG = 36,540 tons

Authority cited: *Section 40502 and 41780.1, Public Resources Code.*

Reference: *Sections 41780.1, 41780.2, 41781, and 41821, Public Resources Code.*

Section 18797.4. Reporting Requirements. [Repealed]

Article 9.2. Disposal Reporting System

Section 18800. Scope and Purpose.

(a) This Article implements sections 41821.5 and 41821.2 of the Public Resources Code.

(b) Each jurisdiction in California must adopt a Source Reduction and Recycling Element showing how it will meet the diversion goals in section 41780 of the Public Resources Code. Diversion goal achievement is one of the factors that the Board will consider in its biennial review of Source Reduction and Recycling Element implementation pursuant to section 41825 of the Public Resources Code. To determine if it has met the goals, a jurisdiction will need to calculate how much solid waste it has disposed. The Disposal Reporting System in this Article shall be used to estimate the amount of disposal from each jurisdiction. The amount of disposal shall be compared to the maximum disposal tonnages calculated in section 18794.1 of Article 9.0.

(c) Nothing in this Article shall prevent an agency, district, or a jurisdiction from requiring haulers or operators to supply additional disposal information based upon their own authority to impose requirements on haulers or operators.

(d) Sections 18802, 18803, 18805, 18806, and 18807 of this Article are repealed. The content of the repealed sections has been modified and reorganized to provide information by type of entity in individual sections as follows:

(1) Hauler: Section 18808.

(A) Section 18808.4: Hauler Records: Retention, Access, and Investigations

- (B) Section 18808.5: Identifying Jurisdiction of Origin
- (C) Section 18808.6: Frequency of Origin Surveys
- (D) Section 18808.8: Applicability of Alternative Reporting Systems
- (E) Section 18808.10: Export Reporting Due Dates for a Public Contract Hauler
- (2) Station: Section 18809.
 - (A) Section 18809.4: Station Records: Retention, Access, and Investigations
 - (B) Section 18809.5: Identifying Jurisdiction of Origin
 - (C) Section 18809.6: Frequency of Origin Surveys
 - (D) Section 18809.8: Applicability of Alternative Reporting Systems
 - (E) Section 18809.10: Disposal Reporting Due Dates for a Station
- (3) Landfill: Section 18810.
 - (A) Section 18810.4: Landfill Records: Retention, Access, and Investigations
 - (B) Section 18810.5: Identifying Jurisdiction of Origin
 - (C) Section 18810.6: Frequency of Origin Surveys
 - (D) Section 18810.8: Applicability of Alternative Reporting Systems
 - (E) Section 18810.10: Disposal Reporting Due Dates for a Landfill
- (4) Transformation Facility: Section 18811.
 - (A) Section 18811.4: Transformation Facility Records: Retention, Access, and Investigations
 - (B) Section 18811.5: Identifying Jurisdiction of Origin
 - (C) Section 18811.6: Frequency of Origin Surveys
 - (D) Section 18811.8: Applicability of Alternative Reporting Systems
 - (E) Section 18811.10: Disposal Reporting Due Dates for a Transformation Facility
- (5) Agency: Section 18812.
 - (A) Section 18812.4: Agency Records: Retention, Access, and Investigations

- (B) Section 18812.5: Identifying Jurisdiction of Origin
- (C) Section 18812.6: Frequency of Origin Surveys
- (D) Section 18812.8: Applicability of Alternative Reporting Systems
- (E) Section 18812.10: Disposal Reporting Due Dates for an Agency
- (6) Jurisdiction: Section 18813.
 - (A) Section 18813.4: Jurisdiction Records: Retention, Access, and Investigations
 - (B) Section 18813.5: Identifying Jurisdiction of Origin
 - (C) Section 18813.6: Frequency of Origin Surveys
 - (D) Section 18813.8: Applicability of Alternative Reporting Systems
 - (E) Section 18813.10: Disposal Reporting Due Date Information
- (7) District: Section 18814.
 - (A) Section 18814.4: District Records: Retention, Access, and Investigations
 - (B) Section 18814.5: Identifying Jurisdiction of Origin
 - (C) Section 18814.6: Frequency of Origin Surveys
 - (D) Section 18814.8: Applicability of Alternative Reporting Systems
 - (E) Section 18814.10: Disposal Reporting Due Dates for a District
- (e) Sections 18809.2(b), 18809.6(b), 18810.2(b), 18810.6(b), and 18811.6(b) of this Article contain provisions for facilities located in rural cities and counties. Rural cities and counties are defined in sections 40183 and 40184 of the Public Resources Code.
- (f) This article shall become inoperative on October 15, 2019. Material handled after June 30, 2019, shall be reported pursuant to Article 9.25, commencing with section 18815.1.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 41821.2 and 41821.5, Public Resources Code.

Section 18801. Definitions.

- (a) For the purposes of this Article, the following terms have the meanings given below.
 - (1) "Agency" means the local agency responsible for compiling the disposal information from haulers and operators. The county is the agency, unless a region is given the

responsibility as part of a regional agreement.

(2) "Airspace utilization factor" (AUF) (tons of waste per cubic yard of landfill airspace) means the effective density of waste material in the landfill. The AUF is recorded as the total weight of waste material passing over the landfill scales that is placed in a known volume of landfill airspace in a given time period. The waste portion of the AUF should include only waste material for which payment of fees to the Board is reported.

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

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

(5) "Beneficial reuse" has the same meaning as in Section 20686 of Title 27 of the California Code of Regulations.

(6) "Board" means the California Integrated Waste Management Board.

(7) "Construction and Demolition (C&D) Debris" has the same meaning as in Section 17381(e) of Title 14 of the California Code of Regulations.

(8) "Designated waste" has the same meaning as defined in Section 13173 of the California Water Code.

(9) "Disaster waste" has the same meaning as "disaster debris" in Section 17210.1(d) in Title 14 of the California Code of Regulations.

(10) "Dispatcher" means a person who sends a public contract hauler on a specific route or to specific locations to collect solid waste for delivery to a solid waste facility. A "dispatcher" keeps records on the locations to which haulers are sent to collect and deliver waste.

(11) "District" means a community service district established in accordance with Government Code Section 61000 et seq., that provides solid waste handling services or implements source reduction and recycling programs. "District" also includes a sanitary district or a public utility district that provides solid waste handling services or implements source reduction and recycling programs.

(12) "Export from California" means export outside the boundaries of the State of California or to Indian country within the boundaries of the State of California, as defined in Section 1151 of Title 18 of the United States Code.

(13) "Facility" means a permitted solid waste facility, as defined in Section 18720(a)(51) of the California Code of Regulations. "Facility" includes, but is not limited to transfer stations, landfills, and transformation facilities.

(14) "Gatehouse attendant" means a person who processes deliveries from haulers

transporting solid waste to a facility and who may be responsible for obtaining jurisdiction of origin information.

(15) "Hauler" means a person who collects solid waste from a solid waste generator, or collects his or her own waste, and transports the waste to a solid waste facility. "Hauler" includes a public contract hauler. "Hauler" does not include a person who transports solid waste from a station to another facility.

(16) "Host jurisdiction" means a jurisdiction in which a permitted solid waste facility is located.

(17) "Import from outside California" means import of waste from outside the boundaries of the State of California or from Indian country within the boundaries of the State of California, as defined in Section 1151 of Title 18 of the United States Code.

(18) "In-place waste density" (pounds of waste per cubic yard of waste) means the estimated or measured density of in-place waste material achieved by mechanical or other means in the development of the current lift of the current operating waste cell.

(19) "Inert debris" has the same meaning as in Section 17381(k) of Title 14 of the California Code of Regulations.

(20) "Jurisdiction" means a city, county, city and county, or regional agency with responsibility for waste management. This definition is in addition to the definition found in Section 18720(a)(33).

(21) "Load" means the solid waste delivered to a solid waste facility in a single vehicle at one time.

(22) "Operator" means a person who operates a permitted solid waste facility.

(23) "Origin survey" or "survey" means a method for determining the jurisdiction(s) of origin for solid waste delivered to a facility.

(24) "Public contract hauler" means a person who charges for or is paid for collecting solid waste from a solid waste generator and transporting the waste to a solid waste facility. A person involved in a solid waste enterprise or solid waste handling services as defined in Sections 49504 and 49505 of the Public Resources Code respectively, and a person who is a franchise hauler meet the definition of a public contract hauler. A "public contract hauler" may collect solid waste from residential, commercial, industrial, or other generators.

(25) "Quarter" means one of the following four three-month periods in a calendar year: The first quarter begins January 1 and ends March 31. The second quarter begins April 1 and ends June 30. The third quarter begins July 1 and ends September 30. The fourth quarter begins October 1 and ends December 31.

(26) "Region" means an entity formed pursuant to Sections 40970 through 40975 of the

Public Resources Code. This definition supersedes the definition found in Section 18720(a)(57) of the California Code of Regulations for the purposes of this Article.

(27) "Soil" includes clean or contaminated soil.

(A) "Clean (or noncontaminated) soil" means soil that does not contain other materials, or is below designated concentrations of contamination for other materials as allowed pursuant to Section 13173 of the California Water Code.

(B) "Contaminated soil" means soil that:

(i) contains designated or nonhazardous concentrations, as set forth in Title 23, Chapter 15, Article 1, Section 2510 et seq. of the California Code of Regulations, of petroleum hydrocarbons, such as gasoline and its components (benzene, toluene, xylene, and ethylbenzene), diesel and its components (benzene), virgin oil, motor oil, or aviation fuel, and lead as an associated metal; and

(ii) has been determined pursuant to Section 13263(a) of the Water Code to be a waste that requires regulation by the Regional Water Quality Control Board or Local Oversight Agency.

(28) "Solid waste" or "waste" has the same meaning as defined in Section 40191 of the Public Resources Code.

(29) "Station" means a permitted solid waste facility utilized to receive solid wastes, temporarily store, separate, convert, or otherwise process the materials in the solid wastes, or to transfer the solid wastes directly from smaller to larger vehicles for transport. "Station" includes permitted transfer or processing stations or facilities, and permitted materials recovery facilities. "Station" does not include permitted transformation facilities or landfills.

(30) "Track" means to collect origin information and determine tonnage for loads of waste delivered to a facility and to maintain a record of the origin and tonnage information. Data tracked during a quarter is used to compile quarterly reports.

(31) "Waste-to-cover ratio" (estimated) (volume:volume) means the unit-less expression of the proportion of the volumes of waste and cover that comprise a volume of compacted fill material, e.g. 4:1. The cover portion of the waste-to-cover ratio estimate should include only soil or approved daily or intermediate alternative cover that is not considered a waste material, i.e., payment of fees to the Board is not required. The waste portion of the waste-to-cover ratio estimate should include only waste material for which payment of fees to the Board is reported.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18801.1. Use of Soil for Alternative Daily Cover, Alternative Intermediate Cover, or Beneficial Reuse.

(a) Alternative daily cover does not include the use of clean or contaminated soil segregated prior to receipt by a landfill; however, loads of materials used for alternative daily cover may include small amounts of soil (such as found in construction and demolition waste loads). For the purpose of this Article, amounts of alternative daily cover shall be reported separately from amounts of alternative intermediate cover and from amounts of other beneficial on-site reuse.

(b) Alternative intermediate cover does not include the use of clean or contaminated soil segregated prior to receipt by a landfill; however, loads of materials used for alternative intermediate cover may include small amounts of soil (such as found in construction and demolition waste loads). For the purpose of this Article, amounts of alternative intermediate cover shall be reported separately from amounts of alternative daily cover and from amounts of other beneficial on-site reuse.

(c) Beneficial reuse does not include the use of clean or contaminated soil segregated prior to receipt by a landfill; however, loads of materials reused beneficially may include small amounts of soil (such as found in construction and demolition waste loads). For the purpose of this Article, amounts of other beneficial reuse shall be reported separately from amounts of alternative daily cover and from amounts of alternative intermediate cover.

(d) For the purposes of this Division, clean soil and contaminated soil used as cover or for other beneficial reuse do not count as disposal or diversion.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18802. Records: Retention, Access, and Audits. [Repealed]

Section 18803. Applicability and Alternative Reporting Systems. [Repealed]

Section 18804. Non-compliance.

(a) This Section outlines the Board's process for handling allegations of non-compliance:

(1) If an agency receives written information on specific allegations of non-compliance pursuant to Sections 18808.11(a) and (b), 18809.11(a) and (b), 18810.11(a) and (b), 18811.11(a) and (b), 18812.11(a), 18813.11(a) and (b), and 18814.11(a) and (b), it shall forward this information to the Board. The agency shall send this information in writing, with any additional information it has regarding specific allegations of non-compliance, no later than 60 working days after receiving the information.

(2) If an agency has its own specific allegations of hauler or operator non-compliance, the agency shall forward the information, in writing, to the Board pursuant to Section 18812.11(c).

(3) A hauler, operator, jurisdiction, or district may forward information on specific allegations of agency non-compliance in writing to the Board as set forth in Sections 18808.11(c), 18809.11(c), 18810.11(c), 18811.11(c), 18813.11(c), and 18814.11(c).

(4) Board staff shall work with affected parties to investigate and attempt to resolve allegations of non-compliance, including allowing the entity accused of non-compliance a reasonable opportunity to provide relevant information regarding the allegations. If Board staff substantiates the allegations and cannot resolve them, then the Board shall make a determination on the allegations of non-compliance at a public meeting. Based on a finding of non-compliance, the Board may take one or more of the following actions:

(A) notify the affected jurisdictions of the Board's finding of non-compliance,

(B) publish the name of the hauler or operator and the finding of non-compliance for a three-year period, using electronic or print media, or

(C) other actions as the Board deems necessary.

(5) If the Board, based on its own investigation, determines that a hauler, operator, jurisdiction, agency, or district is not complying with the requirements of this Article, the Board may take one of the following actions:

(A) notify the affected jurisdictions of the Board's finding of non-compliance,

(B) publish the name of the hauler or operator and the finding of non-compliance for a three-year period, using electronic or print media, or

(C) other actions as the Board deems necessary.

(6) If an agency, a public contract hauler, or an operator that is a jurisdiction fails to comply with this Article, and that failure prevents the Board from accurately determining the agency's or jurisdiction's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

(b) Nothing in this Article shall prevent an agency, district, or jurisdiction from enacting ordinances or other measures to ensure that operators and haulers comply with the requirements of this Article.

Authority cited: *Section 40502 and 41825, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18805. Origin Survey Frequency. [Repealed]

Section 18806. Identifying a Jurisdiction of Origin. [Repealed.]

Section 18807. Disposal Reporting Due Dates. [Repealed]

Section 18808. Disposal Reporting Requirements for a Hauler.

(a) Sections 18808.1 through 18808.11 establish the requirements for a hauler as follows:

- (1) Signage for a Hauler Section 18808.1
- (2) Scales and Weighing Requirements for a Hauler Section 18808.2
- (3) Training Requirements for a Public Contract Hauler Section 18808.3
- (4) Hauler Records: Retention, Access, and Investigations Section 18808.4
- (5) Identifying Jurisdiction of Origin Section 18808.5
- (6) Frequency of Origin Surveys Section 18808.6
- (7) Determining Origin of Waste for a Hauler Section 18808.7
- (8) Applicability of Alternative Reporting Systems Section 18808.8
- (9) Public Contract Hauler Export Reports: Content, Timing, and Distribution Section 18808.9
- (10) Export Reporting Due Dates for a Public Contract Hauler Section 18808.10
- (11) Non-compliance Section 18808.11

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.1. Signage for a Hauler. (Not Applicable)

Section 18808.2. Scales and Weighing Requirements for a Hauler. (Not Applicable)

Section 18808.3. Training Requirements for a Public Contract Hauler.

(a) A public contract hauler shall provide training on the disposal reporting system to each vehicle driver, dispatcher, and disposal report preparer and to other employees who must comply with the requirements of this Article. Training for a vehicle driver, dispatcher, and report preparer shall cover the content of this Article as it applies to the employees' job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.4. Hauler Records: Retention, Access, and Investigations.

(a) A hauler shall prepare disposal reporting records and shall:

(1) Include all information, methods, and calculations required by this Article.

(2) Keep quarterly documentation that verifies jurisdiction of origin allocations reported to facilities and agencies pursuant to Sections 18808.7 and 18808.9(a), respectively.

(3) Use a reasonable method to gather the information, such as locally required or facility specific reporting forms, electronic systems, or the optional paper or electronic reporting forms developed by the Board.

(4) Maintain all records for three years in a usable format, such as on electronic media (computer files) or paper copies.

(5) Allow representatives of involved jurisdictions, the agency, operators, districts, and the Board to inspect the records during normal business hours in a single location within California. Operators shall only be allowed to inspect records relating to their own operations. A hauler is not required to provide records of a jurisdiction's disposal information for reporting years for which the Board has already completed the biennial review cycle for the applicable jurisdiction pursuant to Section 41825 of the Public Resources Code.

(A) Upon a request to review records, the hauler shall make the records promptly available for inspection. The hauler shall respond to the request within ten days, but may indicate that additional time is necessary to make the records available due to time necessary to search for, collect and examine records to respond to the request. In no case shall the inspection be delayed more than an additional 14 days, unless agreed to by the requestor.

(B) If copies of specific records are requested, either in lieu of inspection or after inspection, the hauler shall respond to the request for copies within ten days, but may indicate that additional time is necessary to make the copies due to time necessary to search for, collect and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the requestor. The hauler may charge a fee to cover the actual cost of copying. In no case shall the fee exceed ten cents per page, unless local public records act requirements establish another rate.

(C) If a hauler or operator believes that a records request includes information that has been labeled confidential or proprietary by the entity providing that information as defined in Sections 17044 through 17046, the hauler shall inform the Board. The Board shall use the procedures set forth in Section 17046 to determine which records, or parts of records, may be inspected.

(b) A hauler shall respond to requests for clarification regarding their records within ten days. Requests must be specific and clearly stated in writing.

(c) The Board may investigate all information, methods, and calculations pursuant to this Article. If the Board determines that any information is inaccurate, the Board may require corrected information.

(d) If a public contract hauler that is a jurisdiction fails to comply with this Section, and that failure prevents the Board from accurately determining the jurisdiction's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.5. Identifying Jurisdictions of Origin.

(a) When required by this Article:

(1) A hauler shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, an operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) A hauler shall identify solid waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent an agency, district, or jurisdiction from enacting ordinances or other measures to ensure that operators and haulers provide additional jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.6. Frequency of Origin Surveys.

(a) Haulers shall provide jurisdiction of origin information to facility operators during the origin survey period set forth in Sections 18809.6, 18810.6, and 18811.6.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.7. Determining Origin or Waste for a Hauler.

(a) All haulers who are not public contract haulers shall determine the origin of solid waste during the origin survey period required in Section 18808.6:

(1) If solid waste in a load is from only one jurisdiction, a hauler shall assign all the waste in that load to that jurisdiction.

(2) If solid waste in a load is from more than one jurisdiction, a hauler shall estimate the tons or percentage of waste from each based on a reasonable method.

(3) A hauler who delivers solid waste to a facility within California shall inform the operator of the jurisdiction(s) of origin. The hauler shall provide this information on jurisdiction of origin to the operator at the time of disposal, unless prior arrangements are made with the receiving operator. In all cases the information shall be provided no later than two weeks after the end of the quarter.

(4) When requested by a receiving operator, a hauler shall inform a receiving operator of the jurisdiction of origin for all material in each load delivered during the entire quarter identified by the receiving operator as potential alternative daily cover, alternative intermediate cover, or other beneficial reuse material based on actual load tonnage. A hauler shall also inform a receiving operator of the type or types of material being supplied.

(b) All public contract haulers shall determine the origin of solid waste during the origin survey period required in Section 18808.6 as follows:

(1) If solid waste in a load is from only one jurisdiction, a public contract hauler shall assign all the waste in that load to that jurisdiction.

(2) If solid waste in a load is from more than one jurisdiction, a public contract hauler shall estimate the tons or percentage of waste from each based on a reasonable method which may include adjustments for documented waste density differences, if applicable. The methods that a public contract hauler may use to make this estimate include, but are not limited to:

(A) the number of bins emptied in each jurisdiction,

(B) the total capacity of bins emptied in each jurisdiction, or

(C) the actual waste tons collected in each jurisdiction.

(3) A public contract hauler who delivers solid waste to a facility within California shall provide jurisdiction of origin information to each operator based on company dispatcher records of hauling routes and generator locations, billing records, or other relevant records. The method a public contract hauler uses to provide jurisdiction of origin information shall be reasonably designed to provide the required information in an accurate manner and in a format that is useable by the operator. The methods that a hauler may use to provide this information are:

(A) Send the jurisdiction(s) of origin information for each load electronically.

(B) For solid waste sent directly to a landfill or transformation facility, provide the

information using a multi-part ticket system in which the dispatcher gives the vehicle driver a ticket with the estimated percentage of waste from each jurisdiction in the vehicle driver's route. The dispatcher may use a bar code with origin information on the ticket. The vehicle driver gives the receiving operator a portion of the ticket with origin percentage information and keeps a portion of the ticket for the public contract hauler's records.

(C) Provide the information using an alternative method that meets the requirements of this Section.

(4) The public contract hauler shall provide this information on jurisdiction of origin to the operator at the time of disposal, unless prior arrangements are made with the receiving operator. In all cases the information shall be provided no later than two weeks after the end of the quarter.

(5) When requested by a receiving operator, a public contract hauler shall inform a receiving operator of the jurisdiction of origin for all material in each load delivered during the entire quarter that the receiving operator identifies as potential alternative daily cover, alternative intermediate cover, or other beneficial reuse material. The jurisdiction of origin information shall be based on actual daily tonnage. A public contract hauler shall also inform a receiving operator of the type or types of material being supplied.

(6) When requested by a receiving operator, a public contract hauler shall identify each segregated load of C&D debris/inert debris delivered during the entire quarter. The public contract hauler shall also provide the jurisdiction of origin for each load, based on actual daily tonnage.

(7) When requested by a receiving operator, a public contract hauler shall identify each segregated load of designated waste delivered during the entire quarter. The public contract hauler shall inform a receiving operator of the type or types of material being supplied. The public contract hauler shall also provide the jurisdiction of origin for each load, based on actual daily tonnage.

(8) When requested by a receiving operator, a public contract hauler shall identify each segregated load of disaster waste delivered during the entire quarter. The public contract hauler shall also provide the jurisdiction of origin for each load, based on actual daily tonnage.

(9) Pursuant to Section 18808.4(a)(2), a public contract hauler shall keep documentation for verification of jurisdiction of origin allocations for each quarter. Upon request, a public contract hauler shall provide an agency with a summary of quarterly jurisdiction allocations.

Authority cited: *Sections 40502, 41781.3, 41821.5 and 43020, Public Resources Code.*

Reference: *Sections 40508, 41821.5 and 43020, Public Resources Code.*

Section 18808.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which a hauler must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.9. Public Contract Hauler Export Reports: Content, Timing, and Distribution.

(a) For the entire quarter, a public contract hauler who exports solid waste from California shall provide the agency in which the waste originated with the total tons of solid waste exported from each jurisdiction of origin during the quarter. For each jurisdiction allocation, a public contract hauler shall identify the name of the disposal site and the state, country, or Indian country to which the waste was sent. A public contract hauler shall provide this information by the due dates in Section 18808.10.

(b) Upon request by a jurisdiction, a public contract hauler shall provide the jurisdiction with a quarterly report of the tons exported from the jurisdiction by the due dates in Section 18808.10. In lieu of sending quarterly information directly to a jurisdiction, a hauler may electronically submit quarterly disposal information to the Board using a format that would allow the Board to make the information available on its web site.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.10. Export Reporting Due Dates for a Public Contract Hauler.

(a) When required by this Article, a public contract hauler shall send a quarterly export report, on the amounts of solid waste exported from California, to each agency in which the exported waste originated. If requested by a jurisdiction, the public contract hauler shall also send a quarterly export report to the jurisdiction as set forth in Section 18808.9(b). A public contract hauler shall send the report by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year. A public contract hauler shall respond to requests for clarification regarding jurisdiction of origin allocations as specified in Section 18808.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18808.11. Non-Compliance.

(a) A hauler or operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send written

information on specific allegations of non-compliance to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency.

(c) A hauler or operator may inform the Board if an agency fails to comply with this Article. A hauler or operator shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 41821.5, Public Resources Code.

Section 18809. Disposal Reporting Requirements for a Station.

(a) Sections 18809.1 through 18809.11 establish the requirements for a station as follows:

(1) Signage at a Station Section 18809.1

(2) Scales and Weighing Requirements at a Station Section 18809.2

(3) Training Requirements for a Station Section 18809.3

(4) Station Records: Retention, Access, and Investigations Section 18809.4

(5) Identifying Jurisdiction of Origin Section 18809.5

(6) Frequency of Origin Surveys Section 18809.6

(7) Determining Origin of Waste at a Station Section 18809.7

(8) Applicability of Alternative Reporting Systems Section 18809.8

(9) Station Disposal Reports: Content, Timing, and Distribution Section 18809.9

(10) Disposal Reporting Due Dates for a Station Section 18809.10

(11) Non-compliance Section 18809.11

Authority cited: Section 40502, Public Resources Code.

Reference: Section 41821.5, Public Resources Code.

Section 18809.1. Signage at a Station.

(a) An operator may post a sign regarding the collection of waste origin information during the origin survey period specified in Section 18809.6(a) or (b).

(b) The sign may include the following:

(1) "State law requires information on where your waste is from. Be prepared to provide it to the attendant." or

(2) "Be prepared to tell the attendant where your waste is from." or

(3) Other wording reasonably similar to the wording in subsection (1) or (2).

(c) The sign may be translated into additional languages, including but not limited to Spanish.

Authority cited: Section 40502, Public Resources Code.

Reference: Sections 41821.5 and 43020, Public Resources Code.

Section 18809.2. Scales and Weighing Requirements at a Station.

(a) A station shall be equipped with scales if both of the following criteria apply:

(1) the station accepts an annual average of more than 100 tons per operating day or an annual average volume of more than 400 cubic yards of solid waste per operating day, and

(2) the station operates more than 52 days per year.

(b) A station located in a rural city or rural county, as set forth in Sections 40183 and 40184 of the Public Resources Code, shall be equipped with scales if both of the following criteria apply:

(1) the station accepts an annual average of more than 200 tons per operating day or an annual average volume of more than 800 cubic yards of solid waste per operating day, and

(2) the station operates more than 52 days per year.

(c) An operator of a station equipped with scales shall weigh every uncompacted load of solid waste greater than 12 cubic yards. An operator shall also weigh every compacted load of waste. For each uncompacted load less than or equal to 12 cubic yards that is not weighed, an operator shall use volumetric conversion factors to estimate weight as described in subsection (d). If a station's scales are inoperable for a period of time, the operator shall estimate the weight of solid waste using volumetric conversion factors as described in subsection (d) until the scales are back in operation.

(d) For all solid waste that a station operator is allowed to not weigh with scales, the operator shall use reasonable, volumetric conversion factors to estimate the weight of the waste. Volumetric conversion factors used at a station shall meet the following guidelines:

(1) A volumetric conversion factor for a given vehicle and/or trailer type and/or load type (e.g. C&D debris/inert debris load) shall be derived from the average of actual weight data collected for the vehicle and/or trailer type and/or load type during a seven-day minimum weighing period conducted at least every five years. The operator shall determine individual volumetric conversion factors for all the types of vehicles and/or trailers that haul waste to the station and/or the types of loads hauled to the station. The weight data for each vehicle and/or trailer type and/or load type shall be based on a statistically representative sample of vehicles and/or trailers and/or loads.

(2) All volumetric conversion factors for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors shall be included in the station's annual report of disposal reporting methods as set forth in 18809.9(e).

(3) All volumetric conversion factors and supporting calculations and documentation shall be made available for Board staff review upon request pursuant to Section 18809.4.

(4) If the Board determines that volumetric conversion factors are not reasonable or adequately supported, the Board may require the operator to collect new weight data to establish new volumetric conversion factors.

(e) An operator of a station not required to have scales as set forth in subsection (a) or (b) shall estimate the weight of every load of solid waste using reasonable and documented volumetric conversion factors for each type of vehicle and/or trailer that hauls waste to the station and/or each type of load (e.g. C&D debris/inert debris load) hauled to the station. The operator shall identify all volumetric conversion factors for each vehicle and/or trailer type and/or load type and include a description of the method used to determine the conversion factors in the station's annual report of disposal reporting methods as set forth in Section 18809.9(e). The operator shall make all documentation of volumetric conversion factors available for review by Board staff upon request. If the Board determines that volumetric conversion factors are not reasonable or adequately supported, the Board may require the operator to establish new volumetric conversion factors.

(f) An operator is not to required weigh waste if the waste will be weighed at destination landfills and/or transformation facilities. If an operator determines the weight of waste by using scales at destination landfills and/or transformation facilities, the operator shall notify the agency in which the station is located in the annual report of disposal reporting methods as set forth in 18809.9(e)(7). An operator shall maintain a record of the weights obtained at all destination landfills and/or transformation facilities pursuant to Section 18809.4.

(g) An operator of a station required to have scales as set forth in subsection (a) or (b) may request an exemption from the requirement to obtain scales if the station operator can demonstrate that circumstances exist that make compliance with this requirement a hardship. An operator shall submit a request for an exemption to the Board as set forth in subsections (i) through (l). An operator shall submit a request for an exemption no later than 150 days after January 1, 2006. If a station becomes subject to the scales requirement as set forth in subsection (a) or (b) after January 1, 2006, an operator shall submit the request for an exemption within 150 days.

(h) An operator of a station required to have scales as set forth in subsection (a) or (b) may submit a request to implement an alternative weighing system (for example, using off-site scales). An alternative weighing system must meet the minimum weighing requirements of this Section. Weighing of waste at destination landfills and/or transformation facilities pursuant to subsection (f) does not require Board approval as an alternative weighing system. An operator shall submit a request for an exemption to the Board as set forth in subsections (i) through (l).

(i) A station operator's request for an exemption from obtaining scales or request to implement an alternative weighing system shall include the following minimum information:

(1) station name,

(2) station Solid Waste Information System (SWIS) number,

(3) station address,

(4) operator name,

(5) operator mailing address,

(6) operator telephone number,

(7) operator email address, if available,

(8) justification for the proposed exemption or alternative weighing system, such as a lack of electric utilities at the site, geographic remoteness of the site, space constraints at the site, or use of off-site scales,

(9) annual average weight (or annual average volume) of solid waste accepted per day of operation, and

(10) volumetric conversion factors to be used to estimate weight.

(j) Prior to submitting a request for an exemption from the scales requirement or a request to implement an alternative weighing system, an operator shall provide at least a 30-day notice of the proposed request to, and accept and respond to comments from applicable parties including:

- (1) haulers that dispose of waste at the station,
 - (2) the agency in which the station is located,
 - (3) jurisdictions that dispose of waste at the station, and
 - (4) the Local Task Force established pursuant to Section 18761 of this Division.
- (k) An operator shall send a request for an exemption from the scales requirement or a request to

implement an alternative weighing system to Board staff for review. The operator shall also send documentation showing that applicable parties were notified and include a copy of the responses to comments received on the request.

(l) Within 30 working days from receipt of a request, Board staff shall inform the operator, in writing, that the request is complete and accepted for filing, or that the request is deficient and what specific information is still required. Board staff shall approve or disapprove the request within 60 working days from the date the request is deemed complete. The operator may appeal the Board staff determination to the Board.

(m) If subsequent to an approval of an exemption from the scales requirement or a request to implement an alternative weighing system, the Board determines a station no longer meets the criteria of this Section, the Board may rescind the approval.

(n) Nothing in this Article shall prevent an operator from weighing more loads than the minimum required by this Section as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to obtain scales or requiring an operator to weigh more loads than the minimum required by this Section, based upon its own authority to impose requirements on that operator.

(o) A station required to have scales as set forth in subsection (a) or (b), that has not requested and received a Board exemption from this requirement or has not received approval of an alternative weighing system, shall be required to obtain and begin operating the scales by January 1, 2007.

(p) If a station becomes subject to the scales requirement as set forth in subsection (a) or (b) subsequent to January 1, 2006, the operator shall obtain and begin operating the scales by January 1 of the year following the year the station became subject to the requirement. The operator may submit a request for an exemption from the scales requirement or a request to implement an alternative weighing system as set forth in subsections (g) through (l).

Authority cited: Sections 40502, 41821.5, 43020 and 43021, Public Resources Code.
Reference: Sections 40508, 41821.5, 43020 and 43021, Public Resources Code.

Section 18809.3. Training Requirements for a Station.

(a) A station operator shall provide training on the disposal reporting system to each gatehouse attendant and disposal report preparer and to other employees who must comply with the requirements of this Article. Training for a gatehouse attendant and report preparer shall cover the content of this Article as it applies to the employees' job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.4. Station Records: Retention, Access, and Investigations.

(a) An operator shall prepare disposal reporting records and shall:

(1) Include all information, methods, and calculations required by this Article.

(2) Keep quarterly documentation that verifies jurisdiction of origin allocations reported to facilities and agencies pursuant to Sections 18809.9(a) through (c).

(3) Use a reasonable method to gather the information, such as locally required or facility specific reporting forms, electronic systems, or the optional paper or electronic reporting forms developed by the Board.

(4) Maintain all records for three years in a usable format, such as on electronic media (computer files) or paper copies.

(5) Allow representatives of involved jurisdictions, the agency, haulers, operators, districts, and the Board to inspect the records during normal business hours in a single location within California. Haulers and operators shall only be allowed to inspect records relating to their own operations. An operator is not required to provide records of a jurisdiction's disposal information for reporting years for which the Board has already completed the biennial review cycle for the applicable jurisdiction pursuant to Section 41825 of the Public Resources Code.

(A) Upon a request to review records, the operator shall make the records promptly available for inspection. The operator shall respond to the request within ten days, but may indicate that additional time is necessary to make the records available due to time necessary to search for, collect and examine records to respond to the request. In no case shall the inspection be delayed more than an additional 14 days, unless agreed to by the requestor.

(B) If copies of specific records are requested, either in lieu of inspection or after inspection, the operator shall respond to the request for copies within ten days, but may indicate that additional time is necessary to make the copies due to time necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the requestor. The operator may charge a fee to cover the actual cost of copying. In no case shall the

fee exceed ten cents per page, unless local public records act requirements establish another rate.

(C) If a hauler or operator believes that a records request includes information that has been labeled confidential or proprietary by the entity providing that information as defined in Sections 17044 through 17046, the operator shall inform the Board. The Board shall use the procedures set forth in Section 17046 to determine which records, or parts of records, may be inspected.

(b) An operator shall respond to requests for clarification regarding their records within ten days. Requests must be specific and clearly stated in writing.

(c) The Board may investigate all information, methods, and calculations pursuant to this Article. If the Board determines that any information is inaccurate, the Board may require corrected information.

(d) If an operator that is a jurisdiction, fails to comply with this Section, and that failure prevents the Board from accurately determining the jurisdiction's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.5. Identifying Jurisdiction of Origin.

(a) When required by this Article:

(1) An operator shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, an operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) An operator shall identify waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent an agency, district, or jurisdiction from enacting ordinances or other measures to ensure that operators and haulers provide additional jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.6. Frequency of Origin Surveys.

(a) At all permitted stations, origin surveys shall be conducted continuously, each day of station operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a station located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). During the standard origin survey weeks, every load of solid waste shall be surveyed to determine jurisdiction of origin.

(c) At all permitted stations, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a station is located authorizes the station operator to assign all waste tonnage to that city or county.

(e) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.7. Determining Origin of Waste at a Station.

(a) An operator shall determine the origin of all solid waste during the origin survey period set forth in Section 18809.6.

(b) When requested by a receiving operator, an operator who sends solid waste to another facility within California shall provide the receiving operator with the jurisdiction

of origin for all material in each load delivered during the entire quarter that the receiving operator identifies as potential alternative daily cover, alternative intermediate cover, or other beneficial reuse material. The jurisdiction of origin information shall be based on actual daily tonnage. An operator shall also inform a receiving operator of the type or types of material being supplied.

(c) When requested by a receiving operator, an operator who sends solid waste to another facility within California shall notify the operator of that facility of each load of C&D debris/inert debris delivered during the entire quarter. The operator shall also provide the jurisdiction of origin for each load, based on actual daily tonnage.

(d) When requested by a receiving operator, an operator who sends solid waste to another facility within California shall notify the operator of that facility of each load of disaster waste delivered during the entire quarter. The operator shall also provide the jurisdiction of origin for each load, based on actual daily tonnage.

(e) For all loads not delivered by public contract haulers, an operator shall obtain and maintain a record of the following information:

(1) the jurisdiction of origin of the waste as set forth in 18809.5, and

(2) other additional information that the operator has determined will ensure that information provided is accurate.

(f) An operator shall collect jurisdiction of origin from public contract haulers. The public contract hauler shall provide the jurisdiction of origin as specified in Section 18808.7(b).

(g) If a station accepts solid waste from only one jurisdiction, the operator shall assign the waste to that jurisdiction.

(h) If an attendant is not present during regular hours of operation, and one cannot be present to obtain jurisdiction of origin information during the survey period, and the operator does not receive origin information from the haulers delivering waste, then the operator shall assign the waste to the jurisdiction in which the station is located by labeling it as "no attendant host assigned" waste. An operator shall determine quarterly percentages of the total waste assigned to a host jurisdiction and report the percentage allocations to each facility to which waste was sent, pursuant to Section 18809.9(b)(4). An operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18809.9(d).

(i) If a station accepts solid waste from more than one jurisdiction, the operator shall use the information on the jurisdictions of origin for all solid waste to estimate the percentage of waste from each jurisdiction. The percentage of waste from each jurisdiction shall be based on either the total tons accepted from each jurisdiction, the total tons of solid waste from each jurisdiction after adjusting for diversion at the station, or the total tons from each jurisdiction based on a reasonable method used at the station to allocate waste.

(j) If solid waste is delivered to the station and information on the jurisdiction of origin is not provided by the delivering hauler or operator during the survey period as specified in this Article, then the operator shall assign the waste percentage to the jurisdiction in which the station is located by labeling it as “host assigned” waste and send written notification to the agency regarding hauler or operator non-compliance as specified in Section 18809.11. The operator shall determine quarterly percentages of the total waste assigned to a host jurisdiction and report the percentage allocations to each facility to which waste was sent, pursuant to Section 18809.9(b)(4). The operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18809.9(d).

Authority cited: *Sections 40502, 41821.5, 43020 and 43021, Public Resources Code.*

Reference: *Section 40508, 41821.5, 43020 and 43021, Public Resources Code.*

Section 18809.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which an operator must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.9. Station Disposal Reports: Content, Timing, and Distribution.

(a) Each quarter, an operator who sends solid waste to another facility within California shall provide the operator of that facility with the percentage of waste assigned to each jurisdiction as determined pursuant to Section 18809.7. The operator shall provide this information by the due dates in Sections 18809.10(a) and (b).

(b) An operator who sends waste to another facility in California shall send a quarterly notification to the agency in which the station is located and to each agency in which a receiving facility is located. An operator shall keep copies of the notification and all supporting documentation used to prepare the notification pursuant to the record keeping requirements in Section 18809.4. The operator shall send the notifications by the due dates in Section 18809.10. The quarterly notification shall contain the following information:

- (1) the station name and Solid Waste Information System (SWIS) number,
- (2) the reporting quarter and year,
- (3) the total tons of solid waste accepted at the station,
- (4) the percentage of solid waste from each jurisdiction (including host assigned waste, if applicable), based on either:
 - (A) the total tons of solid waste accepted from each jurisdiction,

(B) the total tons of solid waste from each jurisdiction after adjusting for diversion at the station, or

(C) the total tons of solid waste from each jurisdiction determined using a reasonable method to allocate waste,

(5) the name and Solid Waste Information System (SWIS) number of each facility in California to which waste was sent,

(6) the total initial estimated tons of solid waste sent to each facility,

(7) the total tons of each type of material identified for potential reuse as:

(A) alternative daily cover,

(B) alternative intermediate cover, and

(C) other beneficial reuse,

(8) the total tons of each type of material from each jurisdiction identified for potential reuse as:

(A) alternative daily cover, and

(B) alternative intermediate cover,

(9) the total tons of other material accepted at the station and sent off-site for reuse, recycling, or composting during the quarter, and

(10) a brief summary of the methods used to determine the jurisdictions of origin.

(c) For the entire quarter, an operator who exports waste from California shall provide the agency in which the station is located with the total tons of solid waste exported from each jurisdiction of origin during the quarter. For each jurisdiction allocation, an operator shall identify the name of the disposal site and the state, country, or Indian country to which the waste was sent. An operator shall provide this information by the due dates in Section 18809.10.

(d) Upon request by a jurisdiction, an operator shall provide all quarterly information pertaining to the jurisdiction by the due dates in Section 18809.10. In lieu of sending quarterly information directly to a jurisdiction, an operator may electronically submit the quarterly disposal information to the Board using a format that would allow the Board to make the information available on its web site. In addition to the information in subsections (b) and (c), a jurisdiction may request:

(1) the total tons of each type of material identified as other potential beneficial reuse material (excluding alternative daily cover and alternative intermediate cover),

(2) the total tons of C&D debris/inert debris, and

(3) the total tons of disaster waste.

(e) An operator shall send an annual report on disposal reporting methods to the agency in which the station is located. An operator shall send the annual report by the due date in Section 18809.10. An operator shall keep a copy of the annual report in the station's records pursuant to Section 18809.4. The report shall cover each year beginning on January 1 and ending on December 31 and shall include the following:

(1) station name and Solid Waste Information System (SWIS) number,

(2) operator name,

(3) operator mailing address,

(4) operator telephone number,

(5) operator email address, if available,

(6) number and type of scales, if applicable,

(7) notification of the use of scales at destination landfill(s) or transformation facility(ies) to weigh waste sent from the station, pursuant to Section 18809.2(f), if applicable,

(8) all volumetric conversion factors used for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors pursuant to Section 18809.2(d)(1) or (e),

(9) the frequency of each type of origin survey,

(10) the method(s) of determining jurisdiction of origin, including the questions gatehouse attendants ask haulers,

(11) the method(s) used to verify origin information, if applicable,

(12) the method(s) used to track C&D debris/inert debris loads, if applicable,

(13) the method(s) used to track disaster waste loads, if applicable,

(14) the method(s) of determining jurisdiction allocation amounts including:

(A) a description of the method used to determine jurisdiction of origin allocation percentages as reported in subsection (b)(4), and

(B) the percentage of annual tons of waste for each jurisdiction that were assigned based on survey week data as allowed in Sections 18809.6(b) and (c), and

(C) the percentage of the total tons of solid waste sent for disposal or transformation that were based on volumetric conversion factors rather than actual weight measurements,

- (15) any restrictions on which jurisdictions may use the station,
- (16) any differences in station tipping fees based on jurisdiction of origin,
- (17) a listing or description of the computer program(s) or method used to track waste tonnage and origin information, and
- (18) the days and hours of station operation, including all significant variations in the schedule during the reporting year.

Authority cited: *Sections 40502, 41821.5, 43020 and 43021, Public Resources Code.*

Reference: *Sections 40508, 41821.5, 43020 and 43021, Public Resources Code.*

Section 18809.10. Disposal Reporting Due Dates for a Station.

(a) An operator of a permitted station who sends waste to another permitted station in California shall send the operator of that facility the percentage of waste assigned to each jurisdiction for the quarter as set forth in Section 18809.9(a). An operator shall send this information by April 30 for the first quarter, July 31 for the second quarter, October 31 for the third quarter, and January 31 for the fourth quarter of the previous year.

(b) An operator of a permitted station who sends waste to a landfill or transformation facility in California shall send the operator of that facility the percentage of waste assigned to each jurisdiction for the quarter as set forth in Section 18809.9(a). An operator shall send this information by May 15 for the first quarter, August 15 for the second quarter, November 15 for the third quarter, and February 15 for the fourth quarter of the previous year.

(c) An operator of a permitted station shall send quarterly disposal information to affected agencies as set forth in Sections 18809.9(b) and (c). If requested by a jurisdiction, the operator shall also send the quarterly disposal information to the jurisdiction as described in Section 18809.9(d). An operator shall send the report by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(1) An operator of a permitted station who sends waste to another facility within California shall send a notification every quarter to the agency in which the station is located and to each agency in which a receiving facility is located as set forth in Section 18809.9(b).

(2) If a station operator exports waste outside of California, the operator shall send a quarterly report on the amounts of exported waste to the agency in which the station is located as set forth in Section 18809.9(c).

(d) An operator of a permitted station shall send an annual report on disposal reporting methods to the agency in which the station is located, as described in Section

18809.9(e). An operator shall send this annual report by March 15 for the previous year. A station operator shall respond to requests for clarification regarding jurisdiction of origin allocations as specified in Section 18809.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18809.11. Non-Compliance.

(a) A hauler or operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send written information on specific allegations of non-compliance to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency.

(c) A hauler or operator may inform the Board if an agency fails to comply with this Article. A hauler or operator shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810. Disposal Reporting Requirements for a Landfill.

(a) Sections 18810.1 through 18810.11 establish the requirements for a landfill as follows:

(1) Signage at a Landfill Section 18810.1

(2) Scales and Weighing Requirements at a Landfill Section 18810.2

(3) Training Requirements for a Landfill Section 18810.3

(4) Landfill Records: Retention, Access, and Investigations Section 18810.4

(5) Identifying Jurisdiction of Origin Section 18810.5

(6) Frequency of Origin Surveys Section 18810.6

- (7) Determining Origin of Waste at a Landfill Section 18810.7
- (8) Applicability of Alternative Reporting Systems Section 18810.8
- (9) Landfill Disposal Reports: Content, Timing, and Distribution Section 18810.9
- (10) Disposal Reporting Due Dates for a Landfill Section 18810.10
- (11) Non-compliance Section 18810.11

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.1. Signage at a Landfill.

- (a) An operator may post a sign regarding the collection of waste origin information during the origin survey period specified in Section 18810.6(a) or (b).
- (b) The sign may include the following:
 - (1) "State law requires information on where your waste is from. Be prepared to provide it to the attendant." or
 - (2) "Be prepared to tell the attendant where your waste is from." or
 - (3) Other wording reasonably similar to the wording in subsection (1) or (2).
- (c) The sign may be translated into additional languages, including but not limited to Spanish.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.5 and 43020, Public Resources Code.*

Section 18810.2. Scales and Weighing Requirements at a Landfill.

- (a) A landfill shall be equipped with scales if both of the following criteria apply:
 - (1) the landfill accepts an annual average of more than 100 tons per operating day or an annual average volume of more than 400 cubic yards of solid waste per operating day, and
 - (2) the landfill operates more than 52 days per year.
- (b) A landfill located in a rural city or rural county, as set forth in Sections 40183 and 40184 of the Public Resources Code, shall be equipped with scales if both of the following criteria apply:
 - (1) the landfill accepts an annual average of more than 200 tons per operating day or an

annual average volume of more than 800 cubic yards of solid waste per operating day, and

(2) the landfill operates more than 52 days per year.

(c) An operator of a landfill equipped with scales shall weigh every uncompacted load of solid waste greater than 12 cubic yards. An operator shall also weigh every compacted load of waste. For each uncompacted load less than or equal to 12 cubic yards that is not weighed, an operator shall use volumetric conversion factors to estimate weight as described in subsection (d). If a landfill's scales are inoperable for a period of time, the operator shall estimate the weight of solid waste using volumetric conversion factors as described in subsection (d) until the scales are back in operation.

(d) For all solid waste that a landfill operator is allowed to not weigh with scales, the operator shall use reasonable, volumetric conversion factors to estimate the weight of the waste. Volumetric conversion factors used at a landfill shall meet the following guidelines:

(1) A volumetric conversion factor for a given vehicle and/or trailer type and/or load type (e.g. C&D debris/inert debris load) shall be derived from the average of actual weight data collected for the vehicle and/or trailer type and/or load type during a seven-day minimum weighing period conducted at least every five years. The operator shall determine individual volumetric conversion factors for all the types of vehicles and/or trailers that haul waste to the landfill and/or the types of loads hauled to the landfill. The weight data for each vehicle and/or trailer type and/or load type shall be based on a statistically representative sample of vehicles and/or trailers and/or loads.

(2) All volumetric conversion factors for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors shall be included in the landfill's annual report of disposal reporting methods as set forth in 18810.9(h).

(3) All volumetric conversion factors and supporting calculations and documentation shall be made available for Board staff review upon request pursuant to Section 18810.4.

(4) If the Board determines that volumetric conversion factors are not reasonable or adequately supported, the Board may require the operator to collect new weight data to establish new volumetric conversion factors.

(e) An operator of a landfill not required to have scales as set forth in subsection (a) or (b), shall estimate the weight of every load of solid waste using reasonable and documented volumetric conversion factors for each type of vehicle and/or trailer that hauls waste to the landfill and/or each type of load (e.g. C&D debris/inert debris load) hauled to the landfill. The operator shall identify all volumetric conversion factors for each vehicle and/or trailer type and/or load type and include a description of the method used to determine the conversion factors used in the landfill's annual report of disposal reporting methods as set forth in Section 18810.9(h). The operator shall make all

documentation of volumetric conversion factors available for review by Board staff upon request. If the Board determines that volumetric conversion factors are not reasonable or adequately supported, the Board may require the operator to establish new volumetric conversion factors.

(f) An operator of a landfill required to have scales as set forth in subsection (a) or (b) may request an exemption from the requirement to obtain scales if the landfill operator can demonstrate that circumstances exist that make compliance with this requirement a hardship. An operator shall submit a request for an exemption to the Board as set forth in subsections (h) through (k). An operator shall submit a request no later than 150 days after January 1, 2006. If a landfill becomes subject to the scales requirement as set forth in subsection (a) or (b) after January 1, 2006, an operator shall submit the request for an exemption within 150 days.

(g) An operator of a landfill required to have scales as set forth in subsection (a) or (b) may submit a request to implement an alternative weighing system (for example, using off-site scales). An alternative weighing system must meet the minimum weighing requirements of this Section. An operator shall submit a request for an exemption to the Board as set forth in subsections (h) through (k).

(h) A landfill operator's request for an exemption from obtaining scales or request to implement an alternative weighing system shall include the following minimum information:

- (1) landfill name,
- (2) landfill Solid Waste Information System (SWIS) number,
- (3) landfill address,
- (4) operator name,
- (5) operator mailing address,
- (6) operator telephone number,
- (7) operator email address, if available,
- (8) justification for the proposed exemption or alternative weighing system, such as a lack of electric utilities at the site, geographic remoteness of the site, space constraints at the site, occasional relief from weighing requirements during periods of time when excessive lines create public health and safety concerns, or use of off-site scales,
- (9) annual average weight (or annual average volume) of waste accepted per day of operation, and
- (10) volumetric conversion factors to be used to estimate weight.

(i) Prior to submitting a request for an exemption from the scales requirement or a request to implement an alternative weighing system, an operator shall provide at least a 30-day notice of the proposed request to, and accept and respond to comments from applicable parties including those listed below. However, nothing in this requirement is intended to allow any of these parties to seek or impose conditions on the requestor for favorable comments, nor does this Section give them any authority to approve or disapprove the request.

(1) haulers that dispose of waste at the landfill,

(2) the agency in which the landfill is located,

(3) jurisdictions that dispose of waste at the landfill, and

(4) the Local Task Force established pursuant to Section 18761 of this Division.

(j) An operator shall send a request for an exemption from the scales requirement or a request to implement an alternative weighing system to Board staff for review. The operator shall also send documentation showing that applicable parties were notified and include a copy of the responses to comments received on the request.

(k) Within 30 working days from receipt of a request, Board staff shall inform the operator, in writing, that the request is complete and accepted for filing, or that the request is deficient and what specific information is still required. Board staff shall approve or disapprove the request within 60 working days from the date the request is deemed complete. The operator may appeal the Board staff determination to the Board.

(l) If subsequent to an approval of an exemption from the scales requirement or a request to implement an alternative weighing system, the Board determines a landfill no longer meets the criteria of this Section, the Board may rescind the approval.

(m) All volumetric conversion factor(s) used for the purposes of this Article, shall be the same as the volumetric conversion factor(s) used to determine the number of tons that are subject to the fee pursuant to Section 48000 of the Public Resources Code and Section 45151 of the Revenue and Taxation Code.

(n) Nothing in this Article shall prevent an operator from weighing more loads than the minimum required by this Section as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to obtain scales or requiring an operator to weigh more loads than the minimum required by this Section, based upon its own authority to impose requirements on that operator.

(o) A landfill required to have scales as set forth in subsection (a) or (b), that has not requested and received a Board exemption from this requirement or has not received approval of an alternative weighing system, shall be required to obtain and begin operating the scales by January 1, 2007.

(p) If a landfill becomes subject to the scales requirement as set forth in subsection (a)

or (b) subsequent to January 1, 2006, the operator shall obtain and begin operating the scales by January 1 of the year following the year the landfill became subject to the requirement. The operator may submit a request for an exemption from the scales requirement or a request to implement an alternative weighing system as set forth in subsections (f) through (k).

Authority cited: *Sections 40502, 41781.3, 41821.5, 43020 and 43021, Public Resources Code.* Reference: *Sections 40508, 41821.5, 42245, 43020 and 43021, Public Resources Code.*

Section 18810.3. Training Requirements for a Landfill.

(a) An operator shall provide training on the disposal reporting system to each gatehouse attendant and disposal report preparer and to other employees who must comply with the requirements of this Article. Training for a gatehouse attendant and report preparer shall cover the content of this Article as it applies to the employees' job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.4. Landfill Records: Retention, Access, and Investigations.

(a) An operator shall prepare disposal reporting records and shall:

(1) Include all information, methods, and calculations required by this Article.

(2) Keep quarterly documentation that verifies jurisdiction of origin allocations reported to the agency in which the landfill is located pursuant to Section 18810.9(c).

(3) Use a reasonable method to gather the information, such as locally required or facility specific reporting forms, electronic systems, or the optional paper or electronic reporting forms developed by the Board.

(4) Maintain all records for three years in a usable format, such as on electronic media (computer files) or paper copies.

(5) Allow representatives of involved jurisdictions, the agency, haulers, operators, districts, and the Board to inspect the records during normal business hours in a single location within California. Haulers and operators shall only be allowed to inspect records relating to their own operations. An operator is not required to provide records of a jurisdiction's disposal information for reporting years for which the Board has already completed the biennial review cycle for the applicable jurisdiction pursuant to Section 41825 of the Public Resources Code.

(A) Upon a request to review records, the operator shall make the records promptly available for inspection. The operator shall respond to the request within ten days, but may indicate that additional time is necessary to make the records available due to time

necessary to search for, collect and examine records to respond to the request. In no case shall the inspection be delayed more than an additional 14 days, unless agreed to by the requestor.

(B) If copies of specific records are requested, either in lieu of inspection or after inspection, the operator shall respond to the request for copies within ten days, but may indicate that additional time is necessary to make the copies due to time necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the requestor. The operator may charge a fee to cover the actual cost of copying. In no case shall the fee exceed ten cents per page, unless local public records act requirements establish another rate.

(C) If a hauler or operator believes that a records request includes information that has been labeled confidential or proprietary by the entity providing that information as defined in Sections 17044 through 17046, the operator shall inform the Board. The Board shall use the procedures set forth in Section 17046 to determine which records, or parts of records, may be inspected.

(b) An operator shall respond to requests for clarification regarding their records within ten days. Requests must be specific and clearly stated in writing.

(c) The Board may investigate all information, methods, and calculations pursuant to this Article. If the Board determines that any information is inaccurate, the Board may require corrected information.

(d) If an operator that is a jurisdiction, fails to comply with this Section, and that failure prevents the Board from accurately determining the jurisdiction's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.5. Identifying Jurisdiction of Origin.

(a) When required by this Article:

(1) An operator shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, an operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) An operator shall identify waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent an agency, district, or jurisdiction from enacting ordinances or other measures to ensure that operators and haulers provide additional jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.6. Frequency of Origin Surveys.

(a) At all permitted landfills, origin surveys shall be conducted continuously, each day of landfill operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a landfill located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). During the standard survey weeks, every load of solid waste shall be surveyed to determine jurisdiction of origin.

(c) At all permitted landfills, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a landfill is located authorizes the landfill operator to assign all waste tonnage to that city or county.

(e) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.7. Determining Origin of Waste at a Landfill.

(a) An operator shall determine the origin of all solid waste during the origin survey period set forth in Section 18810.6.

(b) For every load of solid waste received during the entire quarter, an operator shall record the jurisdiction of origin for all beneficial reuse material accepted. An operator shall also record the types and quantities of material being used as alternative daily, alternative intermediate cover, and other beneficial reuse. Each type of material used for alternative daily cover, alternative intermediate cover, and other beneficial reuse shall be allocated to jurisdictions using a reasonable estimation method. A reasonable method for calculating allocations may include:

(1) Determining each jurisdiction's percentage of each material type accepted and multiplying by:

(A) the total amounts of alternative daily cover used,

(B) the total amounts of alternative intermediate cover used, and/or

(C) the total amounts of other beneficial reuse material used.

(c) For every load received during the entire quarter, an operator shall track the tons of each of the following types of solid waste disposed at the landfill, allocated to each jurisdiction:

(1) C&D debris/inert debris,

(2) designated waste, by material type, and

(3) disaster waste.

(d) For all loads not delivered by public contract haulers, an operator shall obtain and maintain a record of the following information:

(1) the jurisdiction of origin of the waste as set forth in 18810.5, and

(2) other additional information that the operator has determined will ensure that information provided is accurate.

(e) An operator shall collect jurisdiction of origin from public contract haulers. The public contract hauler shall provide the jurisdiction of origin as specified in Section 18808.7(b).

(f) If a landfill accepts solid waste from only one jurisdiction, the operator shall assign all the waste to that jurisdiction.

(g) If an attendant is not present during regular hours of operation, and one cannot be present for the origin survey period set forth in Section 18810.6, and the operator does not receive origin information from the haulers delivering waste, then the operator shall

assign the waste to the jurisdiction in which the landfill is located by labeling it as “no attendant host assigned” waste. An operator shall report to the agency, the total amounts of solid waste assigned to the host jurisdiction pursuant to 18810.9(c). An operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18810.9(g).

(h) If solid waste is delivered to the facility and information on the jurisdiction of origin is not provided by the delivering hauler or operator as specified in this Article, then the operator shall assign the waste to the jurisdiction in which the landfill is located by labeling it as “host assigned” waste and send written notification to the agency regarding hauler or operator non-compliance as specified in Section 18810.11. An operator shall report to the agency, the total amounts of solid waste assigned to the host jurisdiction pursuant to 18810.9(c). An operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18810.9(g).

(i) If a landfill conducts continuous daily origin surveys as set forth in Section 18810.6(a) and accepts solid waste from more than one jurisdiction, then the operator shall assign the waste tonnage based on the actual jurisdiction of origin information reported by haulers and station operators. If a landfill also conducts origin surveys for uncompacted loads of 12 cubic yards or less during at least a one-week per quarter survey period, the operator shall estimate the amount of waste assigned to each jurisdiction as described in subsection (k) and add these tonnage allocations to the tonnage allocations that were based on daily origin survey information.

(j) If a landfill in a rural jurisdiction accepts solid waste from more than one jurisdiction and only conducts origin surveys during one week per quarter as set forth in Section 18810.6(b), the operator shall do the following steps in order:

(1) Obtain information on the jurisdiction(s) of origin for each load of solid waste delivered to the landfill on the dates set forth in Section 18810.6(b).

Example:

Four loads delivered during the survey week.

Load 1 = 5 tons from City A

Load 2 = 5 tons from City B

Load 3 = 10 tons from City C

Load 4 = 5 tons from City B

(2) Calculate the tons of solid waste (other than soil used as cover or for other on-site uses) assigned to each jurisdiction during the survey week. The operator shall either add up the amounts accepted from each jurisdiction, or the amounts of solid waste from each jurisdiction after adjusting for diversion activity at the landfill.

Example:

City A = 5 tons (Load 1)

City B = 10 tons (Load 2 + Load 4)

City C = 10 tons (Load 3)

(3) Calculate the percentage of waste assigned to each jurisdiction during the survey week by dividing the tons determined in paragraph (2) by the total tons of waste for the survey period.

Example:

25 tons delivered during the survey week.

City A = 5 tons/25 tons = 0.2 (20%)

City B = 10 tons/25 tons = 0.4 (40%)

City C = 10 tons/25 tons = 0.4 (40%)

(4) Calculate the number of tons disposed from each jurisdiction during the quarter by multiplying the percentage from paragraph (3) with the total number of tons of solid waste disposed in each quarter from Section 18810.9(a).

Example:

1000 tons disposed during quarter.

City A = 0.2 x 1000 tons = 200 tons

City B = 0.4 x 1000 tons = 400 tons

City C = 0.4 x 1000 tons = 400 tons

(k) If an operator conducts origin surveys of each uncompacted load of solid waste with a volume of 12 cubic yards or less during a one-week survey period each quarter pursuant to Section 18810.6(c), then the operator shall calculate the estimated tons of solid waste delivered in these loads from each jurisdiction for the quarter. The calculated tonnage allocations shall be based on the actual origin information reported by haulers during the survey period. The operator shall do the following steps in order.

(1) Obtain information on the jurisdiction(s) of origin for each uncompacted load with a volume of 12 cubic yards or less delivered to the landfill on the dates set forth in Section 18810.6(c).

Example:

Four uncompacted loads of 12 cubic yards or less delivered during the survey week.

Load 1 = 0.5 ton from City A

Load 2 = 0.5 ton from City B

Load 3 = 0.5 ton from City C

Load 4 = 0.5 ton from City B

(2) Calculate the tons of solid waste (other than soil used as cover or for other on-site uses) delivered in uncompacted loads of 12 cubic yards or less assigned to each jurisdiction during the survey week. The operator shall either add up the amounts accepted from each jurisdiction, or the amounts of solid waste from each jurisdiction after adjusting for diversion activity at the landfill.

Example:

City A = 0.5 ton (Load 1)

City B = 1 ton (Load 2 + Load 4)

City C = 0.5 ton (Load 3)

(3) Calculate the percentage of solid waste assigned to each jurisdiction during the survey week by dividing the tons determined in paragraph (2) by the total tons of solid waste delivered in uncompacted loads of 12 cubic yards or less during the survey week.

Example:

2 tons delivered in uncompacted loads of 12 cubic yards or less during survey week.

City A = $0.5 \text{ ton} / 2 \text{ tons} = 0.25$ (25%)

City B = $1 \text{ ton} / 2 \text{ tons} = 0.5$ (50%)

City C = $0.5 \text{ ton} / 2 \text{ tons} = 0.25$ (25%)

(4) Calculate the number of tons delivered in uncompacted loads of 12 cubic yards or less and disposed from each jurisdiction during the quarter by multiplying the percentages from paragraph (3) with the total tons of solid waste disposed during the quarter that were delivered in uncompacted loads of 12 cubic yards or less.

Example:

100 tons delivered in uncompacted loads of 12 cubic yards or less and disposed during the quarter.

City A = $0.25 \times 100 \text{ tons} = 25 \text{ tons}$

City B = 0.5 X 100 tons = 50 tons

City C = 0.25 X 100 tons = 25 tons

Authority cited: *Sections 40502, 41781.3, 41821.5, 43020 and 43021, Public Resources Code.* Reference: *Sections 40508, 41821.5, 42245, 43020 and 43021, Public Resources Code.*

Section 18810.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which an operator must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 41821.5, Public Resources Code.*

Section 18810.9. Station Disposal Reports: Content, Timing, and Distribution.

(a) The following requirements shall apply to an operator of a permitted landfill:

(1) An operator shall determine the total number of tons of solid waste disposed in each quarter. The tons disposed shall be the same number of tons reported to the Board of Equalization that are subject to the fee pursuant to Section 48000 of the Public Resources Code and Section 45151 of the Revenue and Taxation Code.

(2) An operator of a facility that does not have to report tons disposed to the Board of Equalization pursuant to Section 48007(b) of the Public Resources Codes (as added by Stats. 1999, Chapter 600), is still required to determine the total number of tons of solid waste disposed in each quarter. However, for these facilities, the tons disposed will not have to be reconciled with the tons reported to the Board of Equalization.

(3) An operator of a facility that has been exempted from the fee pursuant to Section 48006 of the Public Resources Code is still required to report the total number of tons of solid waste disposed in each quarter. However, for these facilities, the tons disposed will not have to be reconciled with the tons reported to the Board of Equalization that are subject to the fee.

(b) An operator shall track the total tons of solid waste accepted by the landfill and sent off-site for reuse, recycling, or composting.

(c) An operator shall provide the following quarterly information to the agency in which the facility is located. An operator shall keep copies of the quarterly information and all supporting documentation used to prepare the information pursuant to the record keeping requirements in Section 18810.4. An operator shall report, by jurisdiction of origin (including host assigned jurisdiction of origin, if applicable), information on the amounts and types of all solid waste specified in this subsection. The operator shall report:

(1) the facility name and Solid Waste Information System (SWIS) number,

- (2) the reporting quarter and year,
- (3) the total tons of all solid waste and all materials accepted at the facility, excluding soil used on-site,
- (4) the total tons of waste reused on-site at the facility, separated as follows:
 - (A) the total tons of each type of alternative daily cover used during the quarter, and
 - (B) the total tons of each type of alternative intermediate cover used during the quarter, and
- (5) the total tons of solid waste disposed at the landfill.
- (d) An operator shall provide quarterly summary information to the agency in which the facility is located. The summary information shall include:
 - (1) the total tons of soil used as cover or for other on-site uses during the quarter,
 - (2) the total tons of solid waste accepted by the landfill, excluding soil used on-site,
 - (3) the total tons of solid waste used on-site, separated as follows:
 - (A) the total tons of each type of alternative daily cover,
 - (B) the total tons of each type of alternative intermediate cover, and
 - (C) the total tons of each type of other beneficial reuse material,
 - (4) the total tons of solid waste sent off-site for reuse, recycling, or composting,
 - (5) the total tons of solid waste disposed at the landfill,
 - (6) the total tons reported to the Board of Equalization subject to the fee pursuant to Section 48000 of the Public Resources Code and Section 45151 of the Revenue and Taxation Code,
 - (7) either:
 - (A) the estimated in-place density achieved at the landfill in units of pounds of waste per cubic yard of waste and the estimated waste-to-cover ratio used at the landfill during the quarter, or
 - (B) the airspace utilization factor (tons of waste per cubic yard of landfill airspace) for the quarter, and

(This information shall be included in the quarterly report so that the Board may accurately calculate the remaining capacity of the landfill as well as regional and statewide remaining capacity. It is not the intent of this Section to subject a landfill to a

Notice of Violation should it subsequently be determined that these estimates are unknowingly inaccurate.)

(8) a brief summary of the methods used to determine the jurisdictions of origin.

(e) Upon request, an operator shall provide the agency in which the facility is located with a copy of the Integrated Waste Management Fee Return submitted to the Board of Equalization.

(f) The operator shall provide all quarterly information to the agency by the due dates in Section 18810.10.

(g) Upon request by a jurisdiction, an operator shall provide all quarterly information pertaining to the jurisdiction by the due dates in Section 18810.10. In lieu of sending quarterly disposal information directly to a jurisdiction, an operator may electronically submit the information to the Board using a format that would allow the Board to make the information available on its web site. In addition to the amounts reported in subsection (c)(3) through (5), a jurisdiction's request for quarterly disposal information may include:

(1) the total tons of each type of other beneficial reuse material (excluding alternative daily cover and alternative intermediate cover),

(2) the total tons of C&D debris/inert debris disposed,

(3) the total tons of each type of designated waste disposed, and

(4) the total tons of disaster waste disposed.

(h) An operator shall send an annual report on disposal reporting methods to the agency in which the facility is located. An operator shall send the annual report by the due date in Section 18810.10. An operator shall keep a copy of the annual report in the facility's records pursuant to Section 18810.4. The report shall cover each year beginning on January 1 and ending on December 31 and shall include the following:

(1) facility name and Solid Waste Information System (SWIS) number,

(2) operator name,

(3) operator mailing address,

(4) operator telephone number,

(5) operator email address, if available,

(6) the number and type of scales, if applicable,

(7) all volumetric conversion factors used for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors pursuant

to Section 18810.2(d)(1) or (e),

(8) the frequency of each type of origin survey,

(9) the percentage of the total tons of disposed waste assigned to each jurisdiction that was based on:

(A) origin information collected during a one-week per quarter survey period as allowed in Section 18810.6(b) or 18810.6(c), if applicable, and

(B) volumetric conversion factors rather than actual weight measurements,

(10) the method(s) of determining jurisdiction of origin, including the questions gatehouse attendants ask haulers,

(11) the method(s) used to verify origin information, if applicable,

(12) any restrictions on which jurisdictions may use the landfill,

(13) any differences in landfill tipping fees based on jurisdiction of origin,

(14) a listing or description of the computer program(s) or method used to track waste tonnage and origin information,

(15) the method(s) used to track the amounts of alternative daily cover, alternative intermediate cover, and other beneficial reuse materials used at the facility,

(16) the method(s) used to track C&D debris/inert debris loads, if applicable,

(17) the designated waste types accepted and method(s) of tracking designated wastes, if applicable,

(18) the method(s) used to track disaster waste loads, if applicable,

(19) the days and hours of operation, including all significant variations in the schedule during the reporting year, and

(20) either:

(A) the calculated in-place waste density achieved at the landfill (in pounds of waste per cubic yard of waste) and a description of the method used to calculate in-place waste density achieved at the landfill, and the calculated waste-to-cover ratio used at the landfill and a description of the method used to calculate the waste-to-cover ratio(s) used at the landfill or

(B) the airspace utilization factor (tons of waste per cubic yard of landfill airspace) and a description of the method used to calculate the airspace utilization factor.

(This information shall be included in the annual report so that the Board may accurately

calculate the remaining capacity of the landfill as well as regional and statewide remaining capacity. It is not the intent of this Section to subject a landfill to a Notice of Violation should it subsequently be determined that these estimates are unknowingly inaccurate).

(i) If the Board determines that an operator has inaccurately reported alternative daily cover, alternative intermediate cover, other beneficial reuse, or other diversion tonnage, that should have been reported as disposal, the operator shall revise its reported disposal tonnage to reflect the Board's determination and pay the fee required by Section 48000 of the Public Resources Code.

(j) If an operator amends disposal reporting information, the operator is only required to provide the amended information to the agency once per quarter (the operator shall still allow access to records in accordance with Section 18810.4). An operator is not required to provide amended disposal information for reporting years once the Board has completed the biennial review cycle for those years pursuant to Section 41825 of the Public Resources Code.

Note: Authority cited: Sections 40502, 41781.3, 41821.5, 43020 and 43021, Public Resources Code. Reference: Sections 40508, 41821.5, 42245, 43020 and 43021, Public Resources Code.

Section 18810.10. Disposal Reporting Due Dates for a Landfill.

(a) An operator of a landfill shall send a quarterly report to the agency in which the facility is located as described in Sections 18810.9(c), (d), and (e), if applicable. If requested by a jurisdiction, the operator shall also send the quarterly disposal information to the jurisdiction as set forth in Section 18810.9(g). An operator shall send the report by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) An operator of a landfill shall send an annual report on disposal reporting methods to the agency in which the facility is located, as described in Section 18810.9(h). An operator shall send this annual report by March 15 for the previous year. An operator shall respond to requests for clarification regarding jurisdiction of origin allocations as specified in Section 18810.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18810.11. Non-Compliance.

(a) A hauler or operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send written information on specific allegations of non-compliance to the agency by June 15 for the

first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency.

(c) A hauler or operator may inform the Board if an agency fails to comply with this Article. A hauler or operator shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811. Disposal Reporting Requirements for a Transformation Facility.

(a) Sections 18811.1 through 18811.11 establish the requirements for a transformation facility as follows:

(1) Signage at a Transformation Facility Section 18811.1

(2) Scales and Weighing Requirements at a Transformation Facility Section 18811.2

(3) Training Requirements for a Transformation Facility Section 18811.3

(4) Transformation Facility Records: Retention, Access, and Investigations Section 18811.4

(5) Identifying Jurisdiction of Origin Section 18811.5

(6) Frequency of Origin Surveys Section 18811.6

(7) Determining Origin of Waste at a Transformation Facility Section 18811.7

(8) Applicability of Alternative Reporting Systems Section 18811.8

(9) Transformation Facility Disposal Reports: Content, Timing, and Distribution Section 18811.9

(10) Disposal Reporting Due Dates for a Transformation Facility Section 18811.10

(11) Non-compliance Section 18811.11

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.1. Signage at a Transformation Facility.

(a) An operator may post a sign regarding the collection of waste origin information during the origin survey period specified in Section 18811.6(a) or (b).

(b) The sign may include the following:

(1) "State law requires information on where your waste is from. Be prepared to provide it to the attendant." or

(2) "Be prepared to tell the attendant where your waste is from." or

(3) Other wording reasonably similar to the wording in subsection (1) or (2).

(c) The sign may be translated into additional languages, including but not limited to Spanish.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 41821.5, Public Resources Code.

Section 18811.2. Scales and Weighing Requirements at a Transformation Facility.

(a) An operator of a transformation facility shall weigh every uncompacted load of solid waste greater than 12 cubic yards. An operator shall also weigh every compacted load of waste. For each uncompacted load less than or equal to 12 cubic yards that is not weighed, an operator shall use volumetric conversion factors to estimate weight as described in subsection (b). If a transformation facility's scales are inoperable for a period of time, the operator shall estimate the weight of solid waste using volumetric conversion factors as described in subsection (b) until the scales are back in operation.

(b) For all solid waste that a transformation facility operator is allowed to not weigh with scales, the operator shall use reasonable, volumetric conversion factors to estimate the weight of the waste. Volumetric conversion factors used at a transformation facility shall meet the following guidelines:

(1) A volumetric conversion factor for a given vehicle and/or trailer type and/or load type (e.g. C&D debris/inert debris load) shall be derived from the average of actual weight data collected for the vehicle and/or trailer type and/or load type during a seven-day minimum weighing period conducted at least every five years. The operator shall determine individual volumetric conversion factors for all the types of vehicles and/or trailers that haul waste to the transformation facility and/or all types of loads hauled to the facility. The weight data for each vehicle and/or trailer type and/or load type shall be based on a statistically representative sample of vehicles and/or trailers and/or loads.

(2) All volumetric conversion factors for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors shall be included in the transformation facility's annual report of disposal reporting methods as

set forth in 18811.9(f).

(3) All volumetric conversion factors and supporting calculations and documentation shall be made available for Board review staff upon request pursuant to Section 18811.4.

(4) If the Board determines that volumetric conversion factors are not reasonable or adequately supported, the Board may require the operator to collect new weight data to establish new volumetric conversion factors.

(c) An operator of a transformation facility may submit a request to implement an alternative weighing system (for example, using off-site scales). An alternative weighing system must meet the minimum weighing requirements of this Section. An operator shall submit a request to implement an alternative weighing system to the Board as set forth in subsections (d) through (g).

(d) A transformation facility operator's request to implement an alternative weighing system shall include the following minimum information:

- (1) transformation facility name,
- (2) transformation facility Solid Waste Information System (SWIS) number,
- (3) transformation facility address,
- (4) operator name,
- (5) operator mailing address,
- (6) operator telephone number,
- (7) operator email address, if available,
- (8) justification for the alternative weighing system, such as use of off-site scales,
- (9) annual average weight (or annual average volume) of waste accepted per day of operation, and
- (10) volumetric conversion factors to be used to estimate weight.

(e) Prior to submitting a request to implement an alternative weighing system, an operator shall provide at least a 30-day notice of the proposed request to, and accept and respond to comments from applicable parties including:

- (1) haulers that dispose of waste at the transformation facility,
- (2) the agency in which the transformation facility is located,
- (3) jurisdictions that dispose of waste at the transformation facility, and

(4) the Local Task Force established pursuant to Section 18761 of this Division.

(f) An operator shall send a request to implement an alternative weighing system to Board staff for review. The operator shall also send documentation showing that applicable parties were notified and include a copy of the responses to comments received on the request.

(g) Within 30 working days from receipt of a request, Board staff shall inform the operator, in writing, that the request is complete and accepted for filing, or that the request is deficient and what specific information is still required. Board staff shall approve or disapprove the request within 60 working days from the date the request is deemed complete. The operator may appeal the Board staff determination to the Board.

(h) If subsequent to an approval of a request to implement an alternative weighing system, the Board determines a transformation facility no longer meets the criteria of this Section, the Board may rescind the approval.

(i) Nothing in this Article shall prevent an operator from weighing more loads than the minimum required by this Section as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to weigh more loads than the minimum required by this Section, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.3. Training Requirements for a Transformation Facility.

(a) An operator shall provide training on the disposal reporting system to each gatehouse attendant and disposal report preparer and to other employees who must comply with the requirements of this Article. Training for a gatehouse attendant and report preparer shall cover the content of this Article as it applies to the employees' job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.4. Transformation Facility Records: Retention, Access, and Investigations.

(a) An operator shall prepare disposal reporting records and shall:

(1) Include all information, methods, and calculations required by this Article.

(2) Keep quarterly documentation that verifies jurisdiction of origin allocations reported to the agency in which the transformation facility is located pursuant to Section 18811.9(b).

(3) Use a reasonable method to gather the information, such as locally required or facility specific reporting forms, electronic systems, or the optional paper or electronic reporting forms developed by the Board.

(4) Maintain all records for three years in a usable format, such as on electronic media (computer files) or paper copies.

(5) Allow representatives of involved jurisdictions, the agency, haulers, operators, districts, and the Board to inspect the records during normal business hours in a single location within California. Haulers and operators shall only be allowed to inspect records relating to their own operations. An operator is not required to provide records of a jurisdiction's disposal information for reporting years for which the Board has already completed the biennial review cycle for the applicable jurisdiction pursuant to Section 41825 of the Public Resources Code.

(A) Upon a request to review records, the operator shall make the records promptly available for inspection. The operator shall respond to the request within ten days, but may indicate that additional time is necessary to make the records available due to time necessary to search for, collect and examine records to respond to the request. In no case shall the inspection be delayed more than an additional 14 days, unless agreed to by the requestor.

(B) If copies of specific records are requested, either in lieu of inspection or after inspection, the operator shall respond to the request for copies within ten days, but may indicate that additional time is necessary to make the copies due to time necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the requestor. The operator may charge a fee to cover the actual cost of copying. In no case shall the fee exceed ten cents per page, unless local public records act requirements establish another rate.

(C) If a hauler or operator believes that a records request includes information that has been labeled confidential or proprietary by the entity providing that information as defined in Sections 17044 through 17046, the operator shall inform the Board. The Board shall use the procedures set forth in Section 17046 to determine which records, or parts of records, may be inspected.

(b) An operator shall respond to requests for clarification regarding their records within ten days. Requests must be specific and clearly stated in writing.

(c) The Board may investigate all information, methods, and calculations pursuant to this Article. If the Board determines that any information is inaccurate, the Board may require corrected information.

(d) If an operator that is a jurisdiction, fails to comply with this Section, and that failure prevents the Board from accurately determining the jurisdiction's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 41821.5, Public Resources Code.*

Section 18811.5. Identifying Jurisdiction of Origin.

(a) When required by this Article:

(1) An operator shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, an operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) An operator shall identify waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent an agency, district, or jurisdiction from enacting ordinances or other measures to ensure that operators and haulers provide additional jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*
Reference: *Section 41821.5, Public Resources Code.*

Section 18811.6. Frequency of Origin Surveys.

(a) At all permitted transformation facilities, origin surveys shall be conducted continuously, each day of facility operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a transformation facility located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). During the standard survey weeks, every load of solid waste shall be surveyed to determine jurisdiction of origin.

(c) At all permitted transformation facilities, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a transformation facility is located authorizes the facility operator to assign all waste tonnage to that city or county.

(e) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.7. Determining Origin of Waste at a Transformation Facility.

(a) An operator shall determine the origin of all solid waste during the origin survey period set forth in Section 18811.6.

(b) During the entire quarter, an operator who sends solid waste to another facility within California shall provide the operator of that facility with the jurisdiction of origin for all material in each load identified by the receiving operator as potential alternative daily cover, alternative intermediate cover, or other beneficial reuse material based on actual daily tonnage. An operator shall also inform a receiving operator of the type or types of material being supplied.

(c) For each load received during the entire quarter, an operator shall track tons of each of the following types of solid waste that underwent transformation, allocated to each jurisdiction:

(1) C&D debris/inert debris,

(2) designated waste, by material type, and

(3) disaster waste.

(d) For all loads not delivered by public contract haulers, an operator shall obtain and maintain a record of the following information:

(1) the jurisdiction of origin of the waste as set forth in 18811.5, and

(2) other additional information that the operator has determined will ensure that jurisdiction of origin information provided is accurate.

(e) An operator shall collect jurisdiction of origin from public contract haulers. The public

contract hauler shall provide the jurisdiction of origin as specified in Section 18808.7(b).

(f) If a transformation facility accepts solid waste from only one jurisdiction, the operator shall assign all the waste to that jurisdiction.

(g) If an attendant is not present during regular hours of operation, and one cannot be present for the origin survey period set forth in Section 18811.6, and the operator does not receive origin information from the haulers delivering waste, then the operator shall assign the waste to the jurisdiction in which the facility is located by labeling it as “no attendant host assigned” waste. An operator shall report to the agency, the total amounts of solid waste assigned to the host jurisdiction pursuant to 18811.9(b). An operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18811.9(e).

(h) If solid waste is delivered to the facility and information on the jurisdiction of origin is not provided by the delivering hauler or operator as specified in this Article, then the operator shall assign the waste to the jurisdiction in which the facility is located by labeling it as “host assigned” waste and send written notification to the agency regarding hauler or operator non-compliance as specified in Section 18811.11. An operator shall report to the agency, the total amounts of solid waste assigned to the host jurisdiction pursuant to 18811.9(b). An operator shall also provide information on host assigned waste to a host jurisdiction if requested pursuant to Section 18811.9(e).

(i) If a transformation facility that conducts continuous daily origin surveys as set forth in Section 18811.6(a) accepts solid waste from more than one jurisdiction, then the operator shall assign the waste based on the actual jurisdiction of origin information reported by haulers and station operators. If a transformation facility also conducts origin surveys for uncompacted loads of 12 cubic yards or less during at least a one-week per quarter survey period, the operator shall estimate the amount of waste assigned to each jurisdiction as described in subsection (k) and add these tonnage allocations to the tonnage allocations that were based on daily origin survey information.

(j) If a transformation facility in a rural jurisdiction accepts solid waste from more than one jurisdiction and only conducts origin surveys during one week per quarter as set forth in Section 18811.6(b), the operator shall do the following steps in order:

(1) Obtain information on the jurisdiction(s) of origin for each load of waste delivered to the facility on the dates set in Section 18811.6(b).

Example:

Four loads delivered during the survey week.

Load 1 = 5 tons from City A

Load 2 = 5 tons from City B

Load 3 = 10 tons from City C

Load 4 = 5 tons from City B

(2) Calculate the tons of solid waste assigned to each jurisdiction during the survey week. The operator shall either add up the tons of solid waste accepted from each jurisdiction, or the amounts of solid waste that underwent transformation from each jurisdiction after adjusting for front-end diversion at the transformation facility.

Example:

City A = 5 tons (Load 1)

City B = 10 tons (Load 2 + Load 4)

City C = 10 tons (Load 3)

(3) Calculate the percentage of waste assigned to each jurisdiction during the survey week by dividing the tons from paragraph (2) by the total tons of solid waste for the survey period.

Example:

25 tons delivered during the survey week.

City A = 5 tons/25 tons = 0.2 (20%)

City B = 10 tons/25 tons = 0.4 (40%)

City C = 10 tons/25 tons = 0.4 (40%)

(4) Calculate the number of tons of solid waste that underwent transformation from each jurisdiction during the quarter by multiplying the percentage from paragraph (3) with the total tons of solid waste that underwent transformation in each quarter.

Example:

1000 tons of solid waste underwent transformation during the quarter.

City A = 0.2 x 1000 tons = 200 tons

City B = 0.4 x 1000 tons = 400 tons

City C = 0.4 x 1000 tons = 400 tons

(k) If an operator conducts origin surveys of each uncompacted load of solid waste with a volume of 12 cubic yards or less during a one-week survey period each quarter pursuant to Section 18811.6(c), then the operator shall calculate the estimated tons of solid waste delivered in these loads from each jurisdiction for the quarter. The calculated tonnage allocations shall be based on the actual origin information reported by haulers during the survey period. The operator shall do the following steps in order.

(1) Obtain information on the jurisdiction(s) of origin for each uncompacted load with a volume of 12 cubic yards or less delivered to the transformation facility on the dates set forth in Section 18811.6(c).

Example:

Four uncompacted loads of 12 cubic yards or less delivered during the survey week.

Load 1 = 0.5 ton from City A

Load 2 = 0.5 ton from City B

Load 3 = 0.5 ton from City C

Load 4 = 0.5 ton from City B

(2) Calculate the tons of solid waste delivered in uncompacted loads of 12 cubic yards or less assigned to each jurisdiction during the survey week. The operator shall either add up the tons of solid waste accepted from each jurisdiction, or the amounts of solid waste that underwent transformation from each jurisdiction after adjusting for front-end diversion at the transformation facility.

Example:

City A = 0.5 ton (Load 1)

City B = 1 ton (Load 2 + Load 4)

City C = 0.5 ton (Load 3)

(3) Calculate the percentage of solid waste assigned to each jurisdiction during the survey week by dividing the tons determined in paragraph (2) by the total tons of solid waste delivered in uncompacted loads of 12 cubic yards or less during the survey week.

Example:

2 tons delivered in uncompacted loads of 12 cubic yards or less during the survey week.

City A = $0.5 \text{ ton} / 2 \text{ tons} = 0.25$ (25%)

City B = $1 \text{ ton} / 2 \text{ tons} = 0.5$ (50%)

City C = $0.5 \text{ ton} / 2 \text{ tons} = 0.25$ (25%)

(4) Calculate the number of tons delivered in uncompacted loads of 12 cubic yards or less that underwent transformation from each jurisdiction during the quarter by multiplying the percentages from paragraph (3) with the total tons of solid waste that underwent transformation during the quarter that were delivered in uncompacted loads of 12 cubic yards or less.

Example:

100 tons were delivered in uncompacted loads of 12 cubic yards or less and underwent transformation during the quarter.

City A = 0.25 X 100 tons = 25 tons

City B = 0.5 X 100 tons = 50 tons

City C = 0.25 X 100 tons = 25 tons

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which an operator must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.9. Transformation Facility Disposal Reports: Content, Timing, and Distribution.

(a) An operator shall track the total tons of solid waste accepted by the facility and sent off-site for reuse, recycling, or composting.

(b) An operator shall provide the following quarterly information to the agency in which the facility is located. An operator shall keep copies of the quarterly information and all supporting documentation used to prepare the information pursuant to the record keeping requirements in Section 18811.4. An operator shall report, by jurisdiction of origin (including host assigned jurisdiction of origin, if applicable), information on the amounts and types of all solid waste specified in this subsection. The operator shall report:

(1) the facility name and Solid Waste Information System (SWIS) number,

(2) the reporting quarter and year,

(3) the total tons of solid waste accepted at the facility,

(4) the total tons of each type of material from each jurisdiction identified for potential reuse as:

(A) alternative daily cover, and

(B) alternative intermediate cover,

- (5) the total tons from each jurisdiction that underwent transformation, and
- (c) An operator shall provide quarterly summary information to the agency in which the facility is located. The summary information shall include:
 - (1) the total tons of solid waste accepted at the facility,
 - (2) the total tons of solid waste identified for potential reuse, separated as follows:
 - (A) the total tons of each type of alternative daily cover,
 - (B) the total tons of each type of alternative intermediate cover, and
 - (C) the total tons of each type of other beneficial reuse material,
 - (3) the total tons of other solid waste sent off-site for reuse, recycling, or composting,
 - (4) the total tons of all solid waste that underwent transformation,
 - (5) the total tons of untreated ash resulting from the transformation process, and
 - (6) a brief summary of the methods used to determine the jurisdictions of origin.
- (d) The operator shall provide the quarterly information in subsections (b) and (c) to the agency by the due dates in Section 18811.10.
- (e) Upon request by a jurisdiction, an operator shall provide all quarterly information pertaining to the jurisdiction by the due dates in Section 18811.10. In lieu of sending quarterly disposal information directly to a jurisdiction, an operator may electronically submit the information to the Board using a format that would allow the Board to make the information available on its web site. In addition to the amounts reported in subsection (b)(3) through (5), a jurisdiction's request for quarterly information may include:
 - (1) the total tons of each type of material identified as other potential beneficial reuse material (excluding alternative daily cover and alternative intermediate cover),
 - (2) the total tons of C&D debris/inert debris that underwent transformation,
 - (3) the total tons of each type of designated waste that underwent transformation, and
 - (4) the total tons of disaster waste that underwent transformation.
- (f) An operator shall send an annual report on disposal reporting methods to the agency in which the facility is located. An operator shall send the annual report by the due date in Section 18811.10. An operator shall keep a copy of the annual report in the facility's records pursuant to Section 18811.4. The report shall cover each year beginning on January 1 and ending on December 31 and shall include the following:

- (1) the facility name and Solid Waste Information System (SWIS) number,
- (2) operator name,
- (3) operator mailing address,
- (4) operator telephone number,
- (5) operator email address, if available,
- (6) all volumetric conversion factors used for each vehicle and/or trailer type and/or load type and a description of the method used to determine the conversion factors in compliance with Section 18811.2(b)(1),
- (7) the frequency of each type of origin survey,
- (8) the percentage of the total tons of waste that underwent transformation assigned to each jurisdiction that was based on:
 - (A) origin information collected during a one-week per quarter survey period as allowed in Section 18811.6(b) or (c), if applicable, and
 - (B) volumetric conversion factors rather than actual weight measurements,
- (9) the method(s) of determining jurisdiction of origin, including the questions gatehouse attendants ask haulers,
- (10) the method(s) used to verify origin information, if applicable,
- (11) any restrictions on which jurisdictions may use the facility,
- (12) any differences in transformation facility tipping fees based on jurisdiction of origin,
- (13) a listing or description of the computer program(s) or method used to track waste tonnage and origin information,
- (14) the method(s) used to track C&D debris/inert debris loads, if applicable,
- (15) the designated waste types accepted and method(s) of tracking designated wastes, if applicable,
- (16) the method(s) used to track disaster waste loads, if applicable,
- (17) the final disposition of ash resulting from the transformation process, including the method of ash diversion, if applicable, and
- (18) the days and hours of operation, including all significant variations in the schedule during the reporting year.

(g) If an operator amends disposal reporting information, the operator is only required to provide the amended information to the agency once per quarter (the operator shall still allow access to records in accordance with Section 18811.4). An operator is not required to provide amended disposal information for reporting years once the Board has completed the biennial review cycle for those years pursuant to Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.10. Disposal Reporting Due Dates for a Transformation Facility.

(a) An operator of a transformation facility shall send a quarterly report to the agency in which the facility is located as described in Sections 18811.9(b) and (c). If requested by a jurisdiction, the operator shall also send a quarterly report to the jurisdiction as set forth in Section 18811.9(e). An operator shall send the report by May 31 for the first quarter, August 31 for the second quarter, November 30 for the third quarter, and February 28 for the fourth quarter of the previous year.

(b) An operator of a transformation facility shall send an annual report on disposal reporting methods to the agency in which the facility is located, as described in Section 18811.9(f). An operator shall send this annual report by March 15 for the previous year. An operator shall respond to requests for clarification regarding jurisdiction of origin allocations as specified in Section 18811.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18811.11. Non-Compliance.

(a) A hauler or operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send written information on specific allegations of non-compliance to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency.

(c) A hauler or operator may inform the Board if an agency fails to comply with this Article. A hauler or operator shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812. Disposal Reporting Requirements for an Agency.

(a) Sections 18812.1 through 18812.11 establish the requirements for an agency as follows:

- (1) Signage for an Agency Section 18812.1
- (2) Scales and Weighing Requirements for an Agency Section 18812.2
- (3) Training Requirements for an Agency Section 18812.3
- (4) Agency Records: Retention, Access, and Investigations Section 18812.4
- (5) Identifying Jurisdiction of Origin Section 18812.5
- (6) Frequency of Origin Surveys Section 18812.6
- (7) Determining Origin of Waste for an Agency Section 18812.7
- (8) Applicability of Alternative Reporting Systems Section 18812.8
- (9) Agency Disposal Reports: Content, Timing, and Distribution Section 18812.9
- (10) Disposal Reporting Due Dates for an Agency Section 18812.10
- (11) Non-compliance Section 18812.11

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.1. Signage for an Agency. (Not Applicable)

Section 18812.2. Scales and Weighing Requirements for an Agency. (Not Applicable)

Section 18812.3. Training Requirements for an Agency.

(a) An agency shall provide training on the disposal reporting system to each disposal report preparer and to other employees who must comply with the requirements of this Article. Training for a report preparer shall cover the content of this Article as it applies to the report preparer's job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.4. Agency Records: Retention, Access, and Investigations.

(a) An agency shall prepare disposal reporting records and shall:

(1) Include all information, methods, and calculations required by this Article.

(2) Keep quarterly documentation that verifies jurisdiction of origin allocations reported to the Board and jurisdictions pursuant to Sections 18812.9(a), (c) and (d).

(3) Use a reasonable method to gather the information, such as locally required or facility specific reporting forms, electronic systems, or the optional paper or electronic reporting forms developed by the Board.

(4) Maintain all records for three years in a usable format, such as on electronic media (computer files) or paper copies.

(5) Allow representatives of involved jurisdictions, haulers, operators, districts, and the Board to inspect the records during normal business hours in a single location within California. Haulers and operators shall only be allowed to inspect records relating to their own operations. An agency is not required to provide records of a jurisdiction's disposal information for reporting years for which the Board has already completed the biennial review cycle for the applicable jurisdiction pursuant to Section 41825 of the Public Resources Code.

(A) Upon a request to review records, the agency shall make the records promptly available for inspection. The agency shall respond to the request within ten days, but may indicate that additional time is necessary to make the records available due to time necessary to search for, collect and examine records to respond to the request. In no case shall the inspection be delayed more than an additional 14 days, unless agreed to by the requestor.

(B) If copies of specific records are requested, either in lieu of inspection or after inspection, the agency shall respond to the request for copies within ten days, but may indicate that additional time is necessary to make the copies due to time necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the requestor. The agency may charge a fee to cover the actual cost of copying. In no case shall the fee exceed ten cents per page, unless local public records act requirements establish another rate.

(C) If an agency believes that a records request includes information that has been labeled confidential or proprietary by the entity providing that information as defined in Sections 17044 through 17046, the agency shall inform the Board. The Board shall use the procedures set forth in Section 17046 to determine which records, or parts of records, may be inspected.

(b) An agency shall respond to requests for clarification regarding their records within ten days. Requests must be specific and clearly stated in writing.

(c) The Board may investigate all information, methods, and calculations pursuant to this Article. If the Board determines that any information is inaccurate, the Board may require corrected information.

(d) If an agency fails to comply with this Section, and that failure prevents the Board from accurately determining the agency's level of Source Reduction and Recycling Element implementation, the Board may initiate the process to issue a compliance order as set forth in Section 41825 of the Public Resources Code.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.5. Identifying Jurisdiction of Origin.

(a) When required by this Article:

(1) An agency shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, an operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) An agency shall identify waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent an agency from enacting ordinances or other measures to ensure that operators and haulers provide additional jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.6. Frequency of Origin Surveys.

(a) At all permitted solid waste facilities, origin surveys shall be conducted continuously, each day of facility operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a permitted solid waste facility located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to subsections [e] and [f]). During the standard survey weeks, every load of solid waste

shall be surveyed to determine jurisdiction of origin.

(c) At all permitted solid waste facilities, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to subsections [e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a facility is located authorizes the facility operator to assign all waste tonnage to that city or county.

(e) If the standard origin survey weeks in subsections (b) and (c) are not representative of disposal activity or facility operation, an agency may request alternative survey weeks that are representative of local conditions. During the alternative survey weeks, every load of solid waste specified in subsections (b) and (c), shall be surveyed to determine jurisdiction of origin. If an agency selects origin survey weeks in addition to the standard survey weeks, the additional weeks shall not require Board staff approval as alternative survey weeks. Continuous origin surveys of every load of solid waste during each day of facility operation includes and exceeds the standard survey week, and shall not require Board staff approval as alternative survey weeks.

(f) Prior to using alternative survey weeks, the agency shall:

(1) Provide at least a 30-day notice of the proposed weeks to, and accept and respond to comments from:

(A) haulers and operators of facilities within the boundaries of the agency,

(B) jurisdictions that dispose of waste within the boundaries of the agency, and

(C) Local Task Force established pursuant to Section 18761 of this Division.

(2) Submit the responses to comments received and the list of alternative survey weeks to the Board for review and approval. Within 30 working days from receipt of this material, Board staff shall inform the applicant, in writing, that the information provided is complete and accepted for filing, or that the application is deficient and what specific information is required. Board staff shall approve or disapprove of the alternative survey weeks within 60 working days from the date the agency submits a completed package. The agency may appeal the Board staff determination to the Board.

(3) Notify all haulers and operators of approval by Board staff prior to the first alternative survey week.

(g) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.7. Determining Origin of Waste for an Agency.

(a) Nothing in this Article shall prevent an agency from requiring an operator to collect additional information to document waste origin from a hauler based upon its own authority to impose requirements on that operator.

Section 18812.8. Applicability of Alternative Reporting Systems.

(a) An agency shall comply with the system of requirements and performance standards set forth in this Article. To implement the performance standards, an agency may require haulers or operators to follow procedures in addition to those set forth in this Article, if necessary to address local conditions.

(b) An agency may set up an alternative reporting system that gathers the required information on the amounts and origins of solid waste, and the amounts and origins of alternative daily cover, alternative intermediate cover, and other beneficial reuse by material type from haulers and operators in a different manner than set forth in Sections 18808.7, 18808.9, 18809.7, 18809.9, 18810.7, 18810.9, 18811.7 and 18811.9. If a system collects at least the required information, during at least the standard origin survey period set forth in Section 18812.6, and the system requires disposal information collected to be reported by the same entities, then the system shall not be considered an alternative system, and shall not require Board staff approval as an alternative system. A system that meets or exceeds all of the minimum requirements using methods specified in this Article, shall not be considered an alternative system, and shall not require Board staff approval as an alternative system. If an agency uses an alternative reporting system, that system shall:

(1) Provide all the information required by this Article.

(2) Provide information as accurate as required by the system in this Article.

(3) Provide landfill disposal information consistent with the number of tons reported to the Board of Equalization that are subject to the fee pursuant to Section 48000 of the Public Resources Code and Section 45151 of the Revenue and Taxation Code.

(4) Comply with all the provisions of Sections 18804, 18808.4, 18808.5, 18808.10, 18808.11, 18809.4, 18809.5, 18809.10, 18809.11, 18810.4, 18810.5, 18810.10,

18810.11, 18811.4, 18811.5, 18811.10, 18811.11, 18812.4, 18812.5, 18812.9, 18812.10, 18812.11, 18813.4, 18813.5, 18813.9, 18813.10, 18813.11, 18814.4, 18814.5, 18814.9, 18814.10, and 18814.11 of this Article.

(c) Prior to using an alternative reporting system, the agency shall:

(1) Provide at least a 30-day notice of the proposed system to, and accept and respond to comments from:

(A) haulers and operators of facilities within the boundaries of the agency,

(B) jurisdictions within the boundaries of the agency,

(C) jurisdictions outside the boundaries of the agency that dispose of waste within the boundaries of the agency, and

(D) the Local Task Force established pursuant to Section 18761 of this Division.

(2) Submit a description of how the alternative system meets the minimum requirements and include a copy of the responses to comments received, to the Board for review and approval. Within 30 working days from receipt of this material, Board staff shall inform the applicant, in writing, that the information provided is complete and accepted for filing, or that the application is deficient and what specific information is still required. Board staff shall approve or disapprove of the alternative system within 60 working days from the date the agency submits a completed package. The agency may appeal the Board staff determination to the Board.

(3) Notify all haulers and operators of the approval by Board staff prior to using the alternative system.

(d) If subsequent to approval of an alternative reporting system the Board determines an agency no longer meets the criteria of this Section, the Board may rescind the approval.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.9. Agency Disposal Reports: Content, Timing, and Distribution.

(a) An agency shall use information provided by operators of landfills to determine quarterly totals for the amounts of solid waste specified in this subsection.

(1) For each permitted landfill located within the agency, an agency shall report:

(A) the facility name and Solid Waste Information System (SWIS) number,

(B) the reporting year and quarter,

(C) the total tons of soil accepted by the landfill and used as cover or for other on-site uses,

(D) the total tons of solid waste accepted at the landfill (excluding soil used on-site),

(E) the total tons of solid waste used on-site, separated as follows:

(i) the total tons of each type of alternative daily cover,

(ii) the total tons of each type of alternative intermediate cover, and

(iii) the total tons of each type of other beneficial reuse material,

(F) the total tons of other solid waste accepted at the landfill and sent off-site for reuse, recycling, or composting,

(G) the total tons of solid waste disposed at the landfill,

(H) either:

(i) the estimated in-place density achieved at the landfill in units of pounds of waste per cubic yard of waste and the estimated waste-to-cover ratio used at the landfill, or

(ii) the airspace utilization factor (tons of waste per cubic yard of landfill airspace), and

(This information shall be included in the quarterly report so that the Board may accurately calculate the remaining capacity of the landfill as well as regional and statewide remaining capacity. It is not the intent of this Section to subject a landfill to a Notice of Violation should it subsequently be determined that these estimates are unknowingly inaccurate.)

(I) a brief summary of the methods used to determine the jurisdictions of origin.

(2) For each permitted landfill, located within the agency, an agency shall report the total tons of solid waste allocated to each region, city, and unincorporated county in California and to each state, country, and Indian country from which waste was imported. When applicable, an agency shall also separately report the total tons of waste that were host assigned to a jurisdiction. The agency shall report:

(A) the tons of all solid waste accepted at each landfill (excluding soil used as cover or for other on-site uses),

(B) the tons of solid waste reused on-site at the landfill, separated as follows:

(i) the tons of each type of alternative daily cover used during the quarter, and

(ii) the tons of each type alternative intermediate cover used during the quarter, and

(C) the tons of solid waste disposed at each landfill.

(b) Prior to submitting a quarterly report to the Board, an agency shall verify that the tons of disposal reported by a landfill equal the tons of waste subject to the Integrated Waste Management Fee as reported to the Board of Equalization on the landfill's fee return. If a landfill is not required to report tons disposed to the Board of Equalization as described in Sections 18810.9(a)(2) and (3), an agency shall verify that the tons accepted at the facility minus the tons diverted equal the tons reported as disposal.

(c) An agency shall use information provided by operators of transformation facilities to determine quarterly totals for the amounts of solid waste specified in this subsection.

(1) For each permitted transformation facility located within the agency, an agency shall report:

(A) the facility name and Solid Waste Information System (SWIS) number,

(B) the reporting year and quarter,

(C) the total tons of all solid waste accepted at each transformation facility,

(D) the total tons of solid waste identified for potential reuse, separated as follows:

(i) the total tons of each type of alternative daily cover,

(ii) the total tons of each type of alternative intermediate cover, and

(iii) the total tons of each type of other beneficial reuse material,

(E) the total tons of solid waste sent off-site for reuse, recycling, or composting,

(F) the total tons of solid waste that underwent transformation,

(G) the total tons of untreated ash resulting from the transformation process, and

(H) a brief summary of the methods used to determine the jurisdictions of origin.

(2) For each permitted transformation facility located within the agency, an agency shall report the total tons of solid waste allocated to each region, city, and unincorporated county in California and to each state, country, and Indian country from which waste was imported. The agency shall report:

(A) the total tons of all solid waste accepted at each transformation facility,

(B) the total tons of each type of material identified for potential reuse as:

(i) alternative daily cover, and

(ii) alternative intermediate cover, and

(C) tons of solid waste that underwent transformation at each facility.

(d) An agency shall use information provided by public contract haulers and station operators to determine quarterly totals for:

(1) tons exported from California from within the agency, and

(2) tons exported from California from within the agency allocated to each region, individual city, or individual unincorporated county. For each tonnage allocation, an agency shall identify the name of the disposal site and the state, country, or Indian country to which the waste was sent.

(e) An agency shall compile this information using an electronic form developed by the Board, the agency's own electronic form that the Board's computer system is capable of converting, or paper forms. In lieu of sending quarterly disposal information directly to a jurisdiction, an agency may electronically submit the information to the Board using a format that would allow the Board to make the information available on its web site. An agency shall send this information to:

(1) each California jurisdiction within the agency,

(2) each California jurisdiction outside the agency that uses a facility within the agency,

(3) any region of which the agency is a member, and

(4) the Board.

(f) If an agency does not dispose of solid waste within its boundaries and does not export waste from California from within the agency, the agency shall submit a quarterly report to the Board stating that no waste was disposed within the agency or exported from California from within the agency.

(g) Each year, an agency shall forward to the Board an annual report on disposal reporting methods from each of the facilities within its boundaries.

(h) An agency shall provide the required information by the due dates in Section 18812.10.

(i) If an agency receives amended disposal information from a facility operator or a hauler, the agency shall send amended information to the Board and affected jurisdictions according to the schedule set forth in Section 18812.10.

(j) An agency shall keep copies of the information reported pursuant to this Section and all supporting documentation used to prepare the information pursuant to the record keeping requirements in Section 18812.4. An agency shall also keep a copy of each quarterly station notification received pursuant to Section 18809.9(b).

(k) If a hauler or operator does not provide an agency with required information, then the agency shall send written notification to the Board regarding hauler or operator non-compliance as specified in Section 18812.11.

Authority cited: *Sections 40502, 41781.3 and 41821.5, Public Resources Code.*

Reference: *Sections 40508 and 41821.5, Public Resources Code.*

Section 18812.10. Disposal Reporting Due Dates for an Agency.

(a) An agency shall send a quarterly report to the Board and affected local governments, as set forth in Section 18812.9. In lieu of sending disposal information directly to a local government, an agency may electronically submit the information to the Board using a format that would allow the Board to make the information available on its web site.

(1) An agency shall send the quarterly report by July 15 for the first quarter, October 15 for the second quarter, January 15 for the third quarter of the previous year, and April 15 for the fourth quarter of the previous year.

(2) If an agency receives amended disposal information from a facility operator or a hauler, the agency shall send the Board and each affected jurisdiction an amended report for each affected quarter of the previous year. In an amended report, the agency shall highlight or otherwise identify changes from the prior version. The agency shall send the amended report between April 15 and May 15 for the previous year. An agency may not submit amended disposal information to the Board after May 15 for the previous year, unless Board staff specifically request amended information from the agency. The agency shall send amended information to the affected jurisdictions as the information becomes available throughout the year. An agency may send the required amended information to jurisdictions at the time of the next quarterly reporting due date. An agency is not required to send amended information more frequently than once a quarter. An agency is not required to provide amended disposal information for reporting years once the Board has completed the biennial review cycle for those years pursuant to Section 41825 of the Public Resources Code.

(b) An agency shall forward an annual report on disposal reporting methods from each of the permitted solid waste facilities within its boundaries to the Board. An agency shall forward the reports by April 15 for the previous year. An agency shall respond to requests for clarification regarding jurisdiction of origin allocations as specified in Section 18812.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18812.11. Non-Compliance.

(a) A hauler or operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send written information on specific allegations of non-compliance to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter,

and March 15 for the fourth quarter of the previous year. The agency shall send written information on specific allegations of non-compliance to the Board no later than 60 working days after receiving information from a hauler or operator. The agency shall also send any additional information it has regarding the allegations of non-compliance in writing.

(b) A hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency. The agency shall forward written information on specific allegations of non-compliance to the Board no later than 60 working days after receiving information from a hauler or operator.

(c) An agency shall inform the Board if a hauler or operator fails to comply with this Article by not providing the agency with information required for the preparation of quarterly disposal reports. The agency shall send written information on specific allegations of non-compliance to the Board by July 15 for the first quarter, October 15 for the second quarter, January 15 for the third quarter of the previous year, and April 15 for the fourth quarter of the previous year.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813. Disposal Reporting Requirements for a Jurisdiction.

(a) Sections 18813.1 through 18813.11 establish the requirements for a jurisdiction as follows:

- (1) Signage for a Jurisdiction Section 18813.1
- (2) Scales and Weighing Requirements for a Jurisdiction Section 18813.2
- (3) Training Requirements for a Jurisdiction Section 18813.3
- (4) Jurisdiction Records: Retention, Access, and Investigations Section 18813.4
- (5) Identifying Jurisdiction of Origin Section 18813.5
- (6) Frequency of Origin Surveys Section 18813.6
- (7) Determining Origin of Waste for a Jurisdiction Section 18813.7
- (8) Applicability of Alternative Reporting Systems Section 18813.8
- (9) Jurisdiction Disposal Reports: Content, Timing, and Distribution Section 18813.9

(10) Disposal Reporting Due Date Information Section 18813.10

(11) Non-compliance Section 18813.11

(b) If a jurisdiction operates as a waste hauler, the jurisdiction shall also meet the hauler requirements specified in Sections 18808.1 through 18808.11.

(c) If a jurisdiction operates as a station operator, the jurisdiction shall also meet the station requirements specified in Sections 18809.1 through 18809.11.

(d) If a jurisdiction operates as a landfill operator, the jurisdiction shall also meet the landfill requirements specified in Sections 18810.1 through 18810.11.

(e) If a jurisdiction operates as a transformation facility operator, the jurisdiction shall also meet the transformation facility requirements specified in Sections 18811.1 through 18811.11.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.1. Signage for a Jurisdiction. (Not applicable)

Section 18813.2. Scales and Weighing Requirements for a Jurisdiction. (Not applicable)

Section 18813.3. Training Requirements for a Jurisdiction.

(a) A jurisdiction shall provide training on the disposal reporting system to each report preparer and to other employees who must comply with the requirements of this Article. Training for a report preparer shall cover the content of this Article as it applies to the report preparer's job duties.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.4. Jurisdiction Records: Retention, Access, and Investigations.

(a) If a jurisdiction operates as a hauler, then the jurisdiction shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18808.4.

(b) If a jurisdiction operates as a station operator, then the jurisdiction shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18809.4.

(c) If a jurisdiction operates as a landfill operator, then the jurisdiction shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18810.4.

(d) If a jurisdiction operates as a transformation facility operator, then the jurisdiction shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18811.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.5. Identifying Jurisdiction of Origin.

(a) When required by this Article:

(1) A jurisdiction that operates as a hauler or operator shall identify a jurisdiction by providing its name and specifying whether it is a city, an unincorporated county, or a region.

(2) If expressly allowed by the region, a jurisdiction that operates as a hauler or operator may identify waste from a region formed pursuant to Sections 40970 through 40975 of the Public Resources Code as originating in that region, without specifying the individual cities or unincorporated counties, unless otherwise required by the Board.

(3) A jurisdiction that operates as a hauler or operator shall identify waste imported from outside California by specifying the state, country, or Indian country of origin.

(b) Nothing in this Article shall prevent a jurisdiction from enacting ordinances or other measures to ensure that operators and haulers provide accurate jurisdiction of origin information.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.6. Frequency of Origin Surveys.

(a) At all permitted solid waste facilities, origin surveys shall be conducted continuously, each day of facility operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a permitted solid waste facility located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). During the standard survey weeks, every load of solid waste shall be surveyed to determine jurisdiction of origin.

(c) At all permitted solid waste facilities, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each

year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a facility is located authorizes the facility operator to assign all waste tonnage to that city or county.

(e) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.7. Determining Origin of Waste for a Jurisdiction. (Not Applicable)

Section 18813.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which a jurisdiction must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.9. Jurisdiction Disposal Reports: Content, Timing, and Distribution.

(a) A jurisdiction shall use the information provided by agencies and districts pursuant to this Article to determine the tons of solid waste disposed from January 1 to December 31 in each year. A jurisdiction shall use this disposal amount for the purposes of measuring achievement of the 50% goal. This amount shall be the sum of solid waste from the jurisdiction, including:

(1) the tons disposed at each permitted landfill,

(2) the tons that underwent transformation at a permitted solid waste facility in excess of 10% of a jurisdiction's adjusted base-year generation as calculated in Section 18797.3, and pursuant to Section 41783 of the Public Resources Code,

(3) potential alternative daily cover, alternative intermediate cover, and other beneficial

reuse material which is not used in accordance with the conditions set forth in Sections 20690, 20700, and 20685 of Title 27 of the California Code of Regulations, unless it is otherwise diverted, and

(4) the tons exported from California, minus any portion of the waste that the jurisdiction proves was diverted.

(b) In its annual report to the Board pursuant to Section 41821(f) of the Public Resources Code, a jurisdiction shall report the amounts determined pursuant to this Section.

(c) In its annual report to the Board, a jurisdiction may also provide additional information related to the tons of waste disposed in California, including “host assigned” waste, or exported from California for disposal. If the jurisdiction provides additional information, the annual report shall describe how it was obtained.

(d) If a jurisdiction operates as a hauler, the jurisdiction shall also meet the reporting requirements specified in Section 18808.9.

(e) If a jurisdiction operates as a station operator, the jurisdiction shall also meet the reporting requirements specified in Section 18809.9.

(f) If a jurisdiction operates as a landfill operator, the jurisdiction shall also meet the reporting requirements specified in Section 18810.9.

(g) If a jurisdiction operates as a transformation facility operator, the jurisdiction shall also meet the reporting requirements specified in Section 18811.9.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41780 and 41821.5, Public Resources Code.*

Section 18813.10. Disposal Reporting Due Date Information.

(a) An agency is required to send a quarterly report to each affected jurisdiction, as set forth in Section 18812.9. Haulers, operators, and districts are required to provide quarterly disposal information as set forth in Sections 18808.9, 18809.9, 18810.9, 18811.9, and 18814.9. Disposal information is due according to the following tables:

Table 1. Due dates for information from facilities

Quarter	Information due from Hauler to Facilities	Information due from Stations to Other Stations	Information due from Stations to Landfills and Transformation Facilities	Reports due from Districts to Facilities
First: Jan. 1- Mar. 31	Apr. 15	Apr. 30	May 15	See section 18814.10
Second: Apr. 1-Jun. 30	Jul. 15	Jul. 31	Aug. 15	See section 18814.10
Third: Jul. 1- Sep. 30	Oct. 15	Oct. 31	Nov. 15	See section 18814.10
Fourth: Oct. 1- Dec. 31	Jan. 15	Jan. 31	Feb. 15	See section 18814.10

Table 2. Reports to Agencies, the Board, and Jurisdictions

Quarter	Notifications Due from Stations to Agencies*	Reports Due from Landfills and Transformation Facilities to Agencies*	Export Reports Due from Haulers and Stations*	Reports Due from Districts to Agencies*	Reports Due from Agencies to the Board and Jurisdictions
First: Jan. 1- Mar. 31	Jun. 15	Jun. 15	Jun. 15	Jun. 15	Jul. 15
Second: Apr. 1-Jun. 30	Sep. 15	Sep. 15	Sep. 15	Sep. 15	Oct. 15
Third: Jul. 1-Sep. 30	Dec. 15	Dec. 15	Dec. 15	Dec. 15	Jan. 15
Fourth: Oct. 1-Dec. 31	Mar. 15**	Mar. 15**	Mar. 15	Mar. 15	Apr. 15

* Upon request, reports may be sent to jurisdictions or made available to jurisdictions using the Board's electronic filing.

** Station, landfill, and transformation facility operators also submit annual reports on facility methods to agencies on this date.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18813.11. Non-Compliance.

(a) A hauler or operator that is a jurisdiction shall inform the agency if a hauler or operator fails to comply with this Article by not providing the hauler or operator with information required for the preparation of quarterly disposal reports. The hauler or operator shall send information on specific allegations of non-compliance, in writing, to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A hauler or operator that is a jurisdiction may inform the agency of other non-compliance issues concerning a hauler or operator. The hauler or operator shall send written information on specific allegations to the agency.

(c) A jurisdiction may inform the Board if an agency fails to comply with this Article. A jurisdiction shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 41821.5, Public Resources Code.*

Section 18814. Disposal Reporting Requirements for a District.

(a) Sections 18814.1 through 18814.11 establish the requirements for a district as follows.

(1) Signage for a District Section 18814.1

(2) Scales and Weighing Requirements for a District Section 18814.2

(3) Training Requirements for a District Section 18814.3

(4) District Records: Retention, Access, and Investigations Section 18814.4

(5) Identifying Jurisdiction of Origin Section 18814.5

(6) Frequency of Origin Surveys Section 18814.6

(7) Determining Origin of Waste for a District Section 18814.7

(8) Applicability of Alternative Reporting Systems Section 18814.8

(9) District Disposal Reports: Content, Timing, and Distribution Section 18814.9

(10) Disposal Reporting Due Dates for a District Section 18814.10

(11) Non-compliance Section 18814.11

(b) If a district operates as a waste hauler, the district shall also meet the hauler requirements specified in Sections 18808.1 through 18808.11.

(c) If a district operates as a station operator, the district shall also meet the station requirements specified in Sections 18809.1 through 18809.11.

(d) If a district operates as a landfill operator, the district shall also meet the landfill requirements specified in Sections 18810.1 through 18810.11.

(e) If a district operates as a transformation facility operator, the district shall also meet the transformation facility requirements specified in Sections 18811.1 through 18811.11.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.1. Signage for a District.

(a) If a district operates as a station operator, the district may also meet the provisions specified in Section 18809.1.

(b) If a district operates as a landfill operator, the district may also meet the provisions specified in Section 18810.1.

(c) If a district operates as a transformation facility operator, the district may also meet the provisions specified in Section 18811.1.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.2. Scales and Weighing Requirements for a District.

(a) If a district operates as a station operator, the district shall also meet the requirements specified in Section 18809.2.

(b) If a district operates as a landfill operator, the district shall also meet the requirements specified in Section 18810.2.

(c) If a district operates as a transformation facility operator, the district shall also meet the requirements specified in Section 18811.2.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.3. Training Requirements for a District

(a) If a district operates as a waste hauler, the district shall also meet the hauler training requirements specified in Section 18808.3.

(b) If a district operates as a station operator, the district shall also meet the station training requirements specified in Section 18809.3.

(c) If a district operates as a landfill operator, the district shall also meet the landfill training requirements specified in Section 18810.3.

(d) If a district operates as a transformation facility operator, the district shall also meet the transformation facility training requirements specified in Section 18811.3.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.4. District Records: Retention, Access, and Investigations

(a) If a district operates as a hauler, the district shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18808.4.

(b) If a district operates as a station operator, the district shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18809.4.

(c) If a district operates as a landfill operator, the district shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18810.4.

(d) If a district operates as a transformation facility operator, the district shall prepare and retain disposal reporting records and allow affected entities access to the records as set forth in Section 18811.4.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.5. Identifying Jurisdiction of Origin.

(a) If a district operates as hauler, the district shall identify a jurisdiction of origin as set forth in Section 18808.5.

(b) If a district operates as station operator, the district shall identify a jurisdiction of origin as set forth in Section 18809.5.

(c) If a district operates as landfill operator, the district shall identify a jurisdiction of origin as set forth in Section 18810.5.

(d) If a district operates as transformation facility operator, the district shall identify a jurisdiction of origin as set forth in Section 18811.5.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.6. Frequency of Origin Surveys.

(a) At all permitted solid waste facilities, origin surveys shall be conducted continuously, each day of facility operation, for every load, except as described in subsections (b), (c), and (d).

(b) An operator of a permitted solid waste facility located in a rural city or county, as defined in Sections 40183 and 40184 of the Public Resources Code, may conduct origin surveys as specified in subsection (a) or may conduct origin surveys during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). During the standard survey weeks, every load of solid waste shall be surveyed to determine jurisdiction of origin.

(c) At all permitted solid waste facilities, origin surveys of each uncompacted load of waste with a volume of 12 cubic yards or less may be conducted as specified in subsection (a) or may be conducted during the following standard survey weeks each year: March 8 through March 14, June 8 through June 14, September 8 through September 14, and December 8 through December 14 (unless an agency has received Board approval to use alternative weeks pursuant to Sections 18812.6[e] and [f]). Daily origin surveys shall be conducted for all other loads as specified in subsection (a).

(d) Origin surveys are not required if:

(1) a facility is located in a Board-approved region, the region has authorized the operator to assign all waste tonnage to the region, and the Board does not otherwise require the region to assign waste to the individual cities or unincorporated counties of the region, or

(2) a city or county in which a facility is located authorizes the facility operator to assign all waste tonnage to that city or county.

(e) Nothing in this Article shall prevent an operator from collecting additional information as part of its operation. Nothing in this Article shall prevent an agency from requiring an operator to conduct origin surveys more frequently or to collect additional information, based upon its own authority to impose requirements on that operator.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.7. Determining Origin of Waste for a District.

(a) If a district operates as a waste hauler, the district shall also meet the requirements specified in Section 18808.7.

(b) If a district operates as a station operator, the district shall also meet the requirements specified in Section 18809.7.

(c) If a district operates as a landfill operator, the district shall also meet the requirements specified in Section 18810.7.

(d) If a district operates as a transformation facility operator, the district shall also meet the requirements specified in Section 18811.7.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.8. Applicability of Alternative Reporting Systems.

(a) An agency may establish alternative requirements with which a district must comply as set forth in Section 18812.8.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.9. District Disposal Reports: Content, Timing, and Distribution.

(a) If a district operates as a waste hauler, the district shall also meet the reporting requirements specified in Section 18808.9.

(b) If a district operates as a station operator, the district shall also meet the reporting requirements specified in Section 18809.9.

(c) If a district operates as a landfill operator, the district shall also meet the reporting requirements specified in Section 18810.9.

(d) If a district operates as a transformation facility operator, the district shall also meet the reporting requirements specified in Section 18811.9.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.10. Disposal Reporting Due Dates for a District.

(a) If a district operates as a waste hauler, the district shall submit disposal reports according to the due dates set forth in Section 18808.10.

(b) If a district operates as a station operator, the district shall submit disposal reports according to the due dates set forth in Section 18809.10.

(c) If a district operates as a landfill operator, the district shall submit disposal reports according to the due dates set forth in Section 18810.10.

(d) If a district operates as a transformation facility operator, the district shall submit disposal reports according to the due dates set forth in Section 18811.10.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Section 18814.11. Non-Compliance.

(a) A district that operates as a waste hauler or facility operator shall inform the agency if a hauler or operator fails to comply with this Article by not providing the district with information required for the preparation of quarterly disposal reports. The district shall send written information on specific allegations of non-compliance to the agency by June 15 for the first quarter, September 15 for the second quarter, December 15 for the third quarter, and March 15 for the fourth quarter of the previous year.

(b) A district that operates as a waste hauler or operator may inform the agency of other non-compliance issues concerning a hauler or operator. The district shall send written information on specific allegations to the agency.

(c) A district that operates as a waste hauler or operator may inform the Board if an agency fails to comply with this Article. A district shall send written information on specific allegations of agency non-compliance to the Board.

(d) Allegations of non-compliance shall be handled in accordance with the process set forth in Section 18804.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41821.2 and 41821.5, Public Resources Code.*

Article 9.25. Recycling and Disposal Reporting System

Section 18815.1 Scope and Purpose

(a) (a) This article implements the reporting system set forth in sections 41821.5 through 41821.8 of the Public Resources Code.

(b) Nothing in this article shall prevent a government entity from requiring a reporting entity to supply additional information on activities related to disposal, diversion, composting or recycling based upon its own separate authority granted by section 41821.5(g) of the Public Resources Code, or based upon local ordinances, franchise terms or other agreements.

(c) The Department shall maintain the confidentiality of information in reports submitted to the Department as required by section 18815.12 of this article, the California Public Records Act [Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code], section 40062 of the Public Resources Code, and Title 14 of California Code of Regulations [Division 7, Chapter 1, Article 4 (commencing with section 17041)].

(d) In order to protect data quality, ensure timely reporting, and expedite the reporting process, especially when material is flowing between several reporting entities, the Department will serve as a central repository of information that is required to be reported by reporting entities. If a person is required to report based on the criteria in section 18815.3 of this article, then the person shall report using the methods outlined in section 18815.9 of this article and comply with the applicable requirements for:

(1) Haulers in section 18815.4 of this article,

(2) Transfer/processors in section 18815.5 of this article,

(3) Disposal facilities in section 18815.6 of this article,

(4) Recycling and composting facilities and operations in section 18815.7 of this article, or

(5) Brokers and transporters in section 18815.8 of this article.

(e) This article does not prescribe operational practices unrelated to reporting, permitting requirements for facilities, or an activity's status in relation to recycling goals or diversion mandates.

Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.2. Definitions

(a) For the purposes of this article, the following terms have the meanings given below.

(1) "Alternative daily cover" or "ADC" has the same meaning as in section 20690 of Title 27 of the California Code of Regulations.

(2) "Alternative intermediate cover" or "AIC" has the same meaning as in section 20700 of Title 27 of the California Code of Regulations.

(3) "Automobile dismantler" has the same meaning as in section 17402.5(c)(1) of this division. This does not include automobile shredders, as defined in section 17402.5(c)(2) of this division.

(4) "Automobile shredder" or "Metal shredder" has the same meaning as in section 17402.5(c)(2) of this division. This does not include automobile dismantlers, which has

the same meaning as in section 17402.5(c)(1) of this division.

(5) "Beneficial reuse" has the same meaning as in section 20686 of Title 27 of the California Code of Regulations and occurs at disposal facilities. Beneficial reuse does not include the use of clean or contaminated soil. For the purposes of this section, beneficial reuse includes waste-derived materials used for:

(A) ADC

(B) AIC

(C) Construction, for example, final cover, foundation layer, liner operations layer, leachate and landfill gas collection systems, fill, road base, wet weather operations pads, and access roads.

(D) Landscaping and erosion control, for example, soil amendments for erosion control, dust suppression, landscaping, and stormwater protection.

(6) "Biosolids" means sewage sludge that has been treated to meet the land application standards for heavy metal concentrations, and pathogen and vector control as specified in Subparts B and D of Part 503 of Title 40 of the Code of Federal Regulations.

(7) "Broker" means a person who takes control of material from a reporting entity in California and determines the destination of the material. When used in this article, material "sent to" or "received by" a broker does not require physical possession or legal ownership of the material, but, rather, means that the broker gains control of the material as described above. Brokers are not haulers, disposal facilities, transfer/processors, recyclers, or composters. A person that arranges or facilitates the sale or transfer of materials, but does not determine the destination of the material, is not a broker.

(8) "Business-to-business post-industrial recycling" means a recycling activity that:

(A) Meets all of the following conditions:

(i) A commercial generator generates materials as a by-product of an industrial or manufacturing process,

(ii) The commercial generator separates the material at the source of generation,

(iii) The commercial generator sells or transfers the material directly to a recycler in a business-to-business relationship, and

(iv) The recycler produces an intermediate product equivalent to a specification grade raw material for use by end users; and

(B) Does not include materials from the following sources:

- (i) Residential generators,
 - (ii) Curbside collection of recyclables,
 - (iii) Collection implemented pursuant to mandatory commercial recycling requirements established in section 42649 et seq. of the Public Resources Code,
 - (iv) Scavengers or collectors who did not generate the materials,
 - (v) Collection of post-consumer materials,
 - (vi) Commercial generators that do not directly generate the material as a result of an industrial or manufacturing process but whose recycling or reuse activities result in the accumulation of the material, or
 - (vii) Contract haulers, operations or facilities that are required to have an RDRS registration number.
- (9) "Carpet" has the same meaning as in section 42971(d) of the Public Resources Code.
- (10) "Chipping and grinding facility or operation" means a facility or operation that meets the requirements in section 17862.1 of this division, section 17383.3 of this division for construction and demolition wood debris-related operations, or section 17852(a)(12) of this division.
- (11) "Commercial sector" means businesses, industries, institutions, public organizations, school districts and universities, and multifamily residences of five or more units.
- (12) "Compost" has the same meaning as in section 17896.2(a)(4) of this division. For the purposes of these regulations, compost is considered an intermediate product after it has achieved acceptable metal concentrations, pathogen reduction, and physical contamination levels as required by sections 17868.2, 17868.3, and 17868.3.1 of this division.
- (13) "Composting operation" or "composting facility" has the same meaning as "compostable material handling operation" or "composting facility" as defined in section 17852(a)(12) of this division, and includes in-vessel digestion as regulated in section 17896 of this division. A person operating a "composting operation" or "composting facility" is referred to as a "composter" in these regulations.
- (14) "Construction and demolition/inert debris" or "CDI" means any combination of construction and demolition debris as defined in section 17381(e) of this division and inert debris as defined in section 17381(k) of this division.
- (15) "Contact information" means name, mailing address, physical address, phone number, and e-mail address.

(16) "Contract Hauler" means any person, whether through a franchise or private contract, paid to collect and move material from a generator to a reporting entity, end user, or a destination outside of the state. Any material delivered by a contract hauler is referred to as "contract-hauled" in these regulations.

(17) "Conveyance system" means a method designed to move material from one facility or operation to another facility or operation on the same site. Examples of a conveyance system include, but are not limited to, conveyor belts, pipes, tubes, and heavy equipment, such as a front-end loader.

(18) "Department" means the California Department of Resources Recycling and Recovery.

(19) "Designated waste" has the same meaning as in section 13173 of the California Water Code.

(20) "Disaster debris" has the same meaning as in section 17210.1(d) of this division.

(21) "Direct-hauled" means material sent directly to a transfer/processor or disposal facility from either a generator or another reporting entity that is not a transfer/processor.

(22) "Disposal" has the same meaning as section 40192 of the Public Resources Code, but does not include lawful land application that complies with section 17852(a)(24.5) of this division, or EMSW conversion of tires or biomass that have been separated from other solid waste prior to receipt by an EMSW conversion facility.

(23) "Disposal facility" means a facility where the disposal of solid waste occurs, including, but not limited to:

(A) Landfills,

(B) Engineered municipal solid waste conversion facilities,

(C) Transformation facilities, and

(D) Inert debris and CDI disposal facilities as specified in sections 17388.4 and 17388.5 of this division.

(24) "End user" means a person who uses a material, as defined in this section, within the following categories:

(A) "Manufacturing and Packaging." This includes, but is not limited to, a person who uses the material to produce consumer products, industrial products, pet or animal feed, or packaging. It also includes a person who takes finished compost from a reporting entity and blends, packages, bags or distributes it to consumers. Manufacturers who produce consumer or industrial products with recycled content and do not transfer or sell intermediate products to other entities are "end users," not reporting entities.

(B) “Fuel consumer.” This includes, but is not limited to, a person who takes or uses material, including, but not limited to, biomass or tires for use as fuel. Biomass conversion is a “fuel consumer end use.” EMSW conversion of tires and biomass that have been separated from other solid waste prior to receipt by an EMSW conversion facility is a “fuel consumer end use.” A “transformation facility” as defined in subsection (a)(61) that is not considered an “EMSW facility” as defined in section 40131.2(b) of the Public Resources Code is not a “fuel consumer.”

(C) “Material consumer.” This includes, but is not limited to, a person who takes an intermediate product derived from organics or recyclables from a reporting entity for general consumer distribution or retail, such as compost or wood chips.

(D) “Construction end user.” This includes, but is not limited to, a person who takes a material and uses it in construction.

(E) “Land application.” This includes, but is not limited to, a person who takes an organic intermediate product and uses it for land application.

(F) “Inert debris fill.” This includes, but is not limited to, a person who takes inert debris and uses it for engineered fill.

(25) “Engineered municipal solid waste conversion” or “EMSW conversion” has the same meaning as in section 40131.2 of the Public Resources Code. For the purposes of this article, EMSW conversion of solid waste shall be reported pursuant to section 18815.6(a) of this article, with the exception of tires and biomass that have been separated from other solid waste prior to receipt by an EMSW conversion facility.

(26) “Food waste” is organic solid waste and has the same meaning as “food material” in section 17852(a)(20) of this division. “Food waste” excludes “agricultural material” and “agricultural by-product material” as defined in sections 17852(a)(4.5) and 17852(a)(5) of this division. “Food waste” does not include food redirected to edible food recovery organizations, food banks, direct animal feeding, or other applications that meet the definition of “reuse” as defined in subsection (a)(52).

(27) “Food waste self-hauler” means a person who generates and hauls, utilizing their own employees and equipment, an average of one cubic yard or more per week, or 6,500 pounds or more per quarter of their own food waste to a location or facility that is not owned and operated by that person. A person who self-hauls food waste but does not meet the criteria to be considered a “food waste self-hauler” is a “self-hauler,” and not a “food waste self-hauler.”

(28) “Furniture” means large, bulky objects used to enhance a residence, business, or other space for living or working. This includes, but is not limited to, couches, chairs, dressers, tables, desks, and bed frames. Furniture does not include mattresses, as defined by section 42986(g) of the Public Resources Code.

(29) “Generator” means a person whose activities result in the initial creation of material.

(30) "Glass" means a hard, brittle, usually transparent nonhazardous substance commonly made from sand heated with chemicals. This includes, but is not limited to, whole or crushed materials derived from clear or colored containers with or without California Redemption Value, flat glass, and automotive glass.

(31) "Government entity" means an entity identified in section 40145 of the Public Resources Code or an entity formed pursuant to section 40976 of the Public Resources Code.

(32) "Hauler" means a person who collects material from a generator and delivers it to a reporting entity, end user, or a destination outside of the state. "Hauler" includes public contract haulers, private contract haulers, food waste self-haulers, and self-haulers. A person who transports material from a reporting entity to another person is a transporter, not a hauler.

(33) "Intermediate product" means a material or feedstock derived from organics or recyclables that:

(A) Either replaces or substitutes for a virgin material in a manufacturing, construction, or agricultural process, including, but not limited to, plastic pellets, plastic flake, paper pulp, crushed/baled/shredded metal, and glass cullet, or

(B) Replaces or substitutes for a virgin material in the production of energy, including, but not limited to, tires that have been separated from other solid waste prior to EMSW conversion, biomass that has been separated from other solid waste prior to EMSW conversion, and biomass at a biomass conversion facility, or

(C) Is wood chips that meet applicable industry standards for use in playgrounds, landscaping, erosion control, and by biomass conversion facilities, or

(D) Is compost, or

(E) Is a suitable homogeneous mixture used for direct land application or fill, such as aggregate or crushed miscellaneous base, or organics, including biosolids and biochar.

(34) "Jurisdiction of origin" means the place where a material is initially generated. For places located within California, this means a city, county, city and county, or regional agency with responsibility for waste management, formed pursuant to sections 40970 through 40975 of the Public Resources Code. For places located in states or territories of the United States other than the State of California, jurisdiction of origin means the state, territory, or tribal lands in which a material was generated. For places located in a country other than the United States of America, jurisdiction of origin means the country or tribal lands in which a material was generated.

(35) "Land application" has the same meaning as in section 17852(a)(24.5) of this division, and includes biosolids applied under the purview of the United States Environmental Protection Agency, the statewide waste discharge requirements, also known as a general order, or individual waste discharge requirements issued by a Reg

ional Water Quality Control Board. A person who applies “compost” as defined in subsection (a)(12) is a “material consumer” end user as defined in subsection (a)(24)(C).

(36) “Maintenance District Yard” means a transfer/processor that has been issued a Solid Waste Identification System (SWIS) number by the Department, and is directly operated by a municipality, sanitation district, county, state, or federal public works or sanitation agency, including the United States Forest Service. A “maintenance district yard” also means an unpermitted facility or operation whose primary purpose is to receive waste collected from road maintenance activities, such as sweeping public thoroughfares, litter abatement, and maintaining street trees.

(37) “Material(s)” means solid waste, recyclables, and organics, as well as intermediate products derived from these materials. “Mixed materials” means a combination of different material types.

(38) “Metal” means iron, steel, tin, aluminum, copper, and their alloys, including scrap metal and products made of these metals, like containers, building materials, and plumbing materials.

(39) “Organics” means material originated from living organisms and their metabolic waste products. This includes, but is not limited to, food, “agricultural material” as defined in section 17852(a)(5) of this subdivision, “agricultural by-product material” as defined in section 17852(a)(4.5) of this subdivision, green material, landscape and pruning waste, nonhazardous lumber and dimensional wood, manure, compostable paper, digestate, biosolids, and biogenic sludges; and any product manufactured or refined from these materials, including compost and wood chips.

(40) “Paper” means all types of paper products including pulp, corrugated cardboard, newspaper, office paper, magazines, catalogs and directories, and other composite paper products such as food and beverage cartons and containers.

(41) “Person” has the same meaning as in section 40170 of the Public Resources Code.

(42) “Plastic” means a material made from a wide range of polymers, which can be used to make rigid and flexible plastic products. This includes, but is not limited to, packaging, such as bags, bottles, caps, clamshells, containers, cups, films, and lids; household and bulky rigid items, such as buckets, crates, toys, and tubs; agricultural products, such as drip tape, film, and greenhouse covers; and other products, such as electronics housing, carpet fibers, automobile plastics, and bioplastics.

(43) “Recycle” or “recycling” has the same meaning as defined in section 40180 of the Public Resources Code. A person who engages in recycling is referred to as a “recycler” in these regulations. Recycling does not include “reuse” as defined in subsection (a)(52). For the purposes of reporting under this article, persons who are not exempt as set forth in section 18815.3(c) of this article and engage in the following activities shall register and report those activities as recyclers, as set forth in sections 18815.3(b)(4) and 18815.7 of this article:

(A) For materials such as paper, glass, metal, and plastics, recycling includes, but is not limited to, sorting, cleaning, baling, shredding, pulping, crushing, cullet making, flaking, and pelletizing.

(B) For organics that are not composted, recycling includes, but is not limited to, wastewater treatment, producing mulch, or chipping and grinding.

(C) For CDI, recycling includes, but is not limited to, sorting, crushing, grinding, shredding, sizing, or other processing.

(D) For other products including furniture, carpet, white and brown goods and textiles, recycling includes, but is not limited to, sorting, baling, crushing, cutting, shearing, deconstructing, and removing components from products for recycling (not resale or reuse).

(44) "Recycling and Disposal Reporting System" or "RDRS" means the Department's electronic system for reporting pursuant to this article.

(45) "Recycling and disposal reporting system number" or "RDRS number" means the number assigned to a reporting entity upon registration with the Department's electronic Recycling and Disposal Reporting System.

(46) "Recycling facility or operation" or "Recycler" means any facility or operation that recycles material, as defined in this article. Recycling facilities or operations include entities that meet the definition of "Recycling Center" set forth in section 17402.5(d) of this division. This also includes chipping and grinding operations, and CDI recycling centers as described in section 17381.1 of this division.

(47) "Report" means the quarterly report submitted to the Department by a reporting entity.

(48) "Reporting entity" means a person who engages in reportable activities. A "reporting entity" is required to register and report pursuant to section 18815.3 of this article. A "reporting entity" is required to report on material handling activities pursuant to sections 18815.4 through 18815.8 of this article, as applicable, within the following reporting entity categories:

(A) Haulers

(B) Transfer/processors

(C) Recycling and composting facilities and operations

(D) Disposal facilities

(E) Brokers and transporters

(49) "Reporting period" or "Quarter" means the time period for which a report must be

submitted to the Department. The four reporting periods or four quarters in each calendar year are:

(A) Reporting Period 1 - January 1 to March 31

(B) Reporting Period 2 - April 1 to June 30

(C) Reporting Period 3 - July 1 to September 30

(D) Reporting Period 4 - October 1 to December 31

(50) "Residential sector" means single-family residences and multifamily residences of less than 5 units.

(51) "Residual" has the same meaning as in section 17402.5(b)(1) of this division.

(52) "Resale for Reuse" means selling a used object or material again, to a person who will use it either for its original purpose or for a closely-related purpose, not as a raw material, but without significantly altering the physical form of the object or material. This does not include beneficial reuse.

(53) "Reuse" means the utilization of an object or material again by a person for its original purpose or for a closely-related purpose, not as a raw or intermediate material, but without significantly altering the physical form of the object or material.

(54) "Sent" means sold or transferred. "Sent" is further defined as the collection, transportation or delivery of material by a person to or from a generator, reporting entity, or an end user.

(55) "Self-hauler" means a person who hauls material they have generated to another person. "Food waste self-haulers" are a type of self-hauler.

(56) "Site" means one physical address or assessor parcel number, or multiple adjacent addresses or assessor parcel numbers, that contain(s) one or more facilities, operations, or activities.

(57) "Solid waste" has the same meaning as in section 18720(a)(40) of this chapter.

(58) "Source sector" means one of these three sources from which solid waste is generated:

(A) Contract-hauled single-family residential (e.g., houses),

(B) Contract-hauled commercial/multi-family residential (e.g., businesses and apartments), or

(C) Self-hauled (e.g., hauled by a generator). "Disaster debris" and "designated waste" disposal shall be assigned to the "self-hauled" source sector.

(59) "Textiles" means items made of natural or synthetic thread, yarn, fabric, or cloth, including clothing, fabric trimmings, and draperies, but excluding carpet.

(60) "Tire-derived rubber" means rubber from the processing of waste tires as defined in section 42807 of the Public Resources Code.

(61) "Ton," also referred to as "short ton" or "net ton," means 2,000 pounds. Weight of material shall be reported as handled.

(62) "Transfer/processor" has the same meaning as "Transfer/processing facilities" and "transfer/processing operations," as defined in sections 17402(a)(30-31) of this division, as well as CDI processing operations and facilities as defined in sections 17383.5 through 17383.8 of this division, which receive, temporarily store, convert, process, and transfer materials for recycling, composting, or disposal, but do not meet the requirements of a "Recycling Center" set forth in in section 17402.5(d) of this division.

(63) "Transformation Facility" has the same meaning as in section 40201 of the Public Resources Code.

(64) "Transporter" means a person who takes physical possession and control, and determines the destination, of materials or intermediate products from a reporting entity, and transports those materials to another person inside or outside the state. A person who collects and moves materials from a generator is not a transporter. A driver employed or contracted by a reporting entity to deliver materials to a destination specified by the contracting reporting entity is not a transporter.

(65) "Wastewater treatment plant" has the same meaning as in section 3671 of Title 23 of the California Code of Regulations. For the purposes of these regulations, it is a recycling facility.

(66) "White and brown goods" means discarded major appliances and small home appliances of any color, including, but not limited to, washing machines, clothes dryers, water heaters, stoves, refrigerators, microwaves, and toasters.

(b) The material category and type definitions herein are meant to be illustrative, and not intended to be an exhaustive listing of all materials, grades, or specifications.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.3. Registration, Reporting and Exemptions.

(a) A reporting entity meeting the criteria in subsection (b) shall register and report on the materials or mixtures or combinations thereof listed in subsection (a)(1). Entities are not required to register and report for the activities listed in subsection (c).

(1) Reportable material categories:

- (A) Carpet
- (B) Construction and demolition/inert debris
- (C) Furniture, excluding mattresses
- (D) Glass, excluding cathode ray tube glass
- (E) Metal
- (F) Organics
- (G) Paper
- (H) Plastic
- (I) Solid waste
- (J) Textiles
- (K) Tire-derived rubber or fuels
- (L) White and brown goods

(2) The materials listed in subsection (c)(9) shall not be reported or included in the tonnage thresholds for determining reporting status.

(b) Entities required to register and report:

(1) Permitted disposal facilities that dispose of or beneficially reuse any tonnage with a Registration, Standardized, or Full Permit, including, but not limited to:

- (A) Solid waste landfills,
- (B) Engineered municipal solid waste (EMSW) conversion facilities,
- (C) Transformation facilities,
- (D) Inert debris Type A/Type B disposal facilities,
- (E) CDI waste disposal facilities,
- (F) Industrial waste co-disposal facilities, and
- (G) Waste tire disposal facilities.

(2) Haulers, including, but not limited to:

- (A) Contract haulers who haul 100 or more tons of materials described in subsection

(a)(1) out-of-state per quarter,

(B) Contract haulers who haul 50 or more tons of organics for direct land application per quarter in accordance with section 17852(a)(24.5) of this division, and

(C) Food waste self-haulers.

(3) Transfer/processing facilities and operations, including Enforcement Agency Notification, Registration, Standardized, and Full Permit, that exclusively transfer or process 2,500 or more tons of CDI per quarter, or transfer or process 100 or more tons of other materials described in subsection (a)(1) per quarter, including, but not limited to:

(A) Contaminated soil operations,

(B) Inert debris processing facilities Type A,

(C) Inert debris processing facilities Type B,

(D) Inert debris Type A processing operations,

(E) Nonhazardous ash transfer/processing operations,

(F) Small volume CDI debris processing operations,

(G) Medium volume CDI debris processing facilities,

(H) Large volume CDI debris processing facilities,

(I) Limited volume transfer/processing operations,

(J) Small volume transfer stations,

(K) Medium volume transfer/processing facilities,

(L) Large volume transfer/processing facilities,

(M) Secondary material processing facilities and operations,

(N) Glass container processing operations,

(O) Direct transfer facilities,

(P) Sealed container transfer operations, and

(Q) Mixed waste processing facilities, and material recovery facilities, that require a solid waste facilities permit.

(4) Recycling facilities and operations that exclusively process CDI and sell or transfer

2,500 or more tons of CDI per quarter, or sell or transfer 100 or more tons of materials described in subsection (a)(1) per quarter, including, but not limited to:

(A) A recycler that handles business-to-business post-industrial materials, but also handles materials that do not meet the criteria in section 18815.2(a)(8) of this article,

(B) Material recovery facilities that do not require a solid waste facilities permit,

(C) Recycling centers,

(D) Wastewater treatment plants,

(E) Paper pulpers,

(F) Textile fiber reclaimers,

(G) Plastic reclaimers, shredders, grinders, flakers, and pelletizers,

(H) Metal shredders, sorters, and processors,

(I) Glass cullet manufacturers/beneficiators,

(J) Beverage container recycling program recyclers or processors,

(K) Carpet collectors and recyclers,

(L) Construction, demolition & inert debris (CDI) recyclers,

(M) Construction and demolition recyclers,

(N) Inert debris recyclers,

(O) Chipping and grinding facilities or operations,

(P) Medium volume construction and demolition wood debris chipping and grinding facilities,

(Q) Construction and demolition wood debris chipping and grinding operations, and

(R) Automobile shredders.

(5) Composting facilities and operations that sell or transfer 100 or more tons of materials described in subsection (a)(1) per quarter, and are not excluded by section 17855 of this subdivision for composting operations or by section 17896.6 of this subdivision for in-vessel digestion operations, including, but not limited to:

(A) Compostable material handling facilities and operations,

(B) Composting research operations, and

- (C) In-vessel digestion facilities and operations.
- (6) Brokers/transporters who sell or transfer, and control and determine the destination of, 100 or more tons of materials described in subsection (a)(1) per quarter.
- (c) Entities not required to register and report:
 - (1) End users performing activities including, but not limited to:
 - (A) Asphalt plants or concrete or Portland cement manufacturing facilities,
 - (B) Biomass conversion facilities,
 - (C) Glass bottle, container, fiberglass, or construction material producers other than those included in subsection (b),
 - (D) Inert debris engineered fill operations,
 - (E) Metal foundries,
 - (F) Metal smelters,
 - (G) Paper converting plants,
 - (H) Paper mills,
 - (I) Plastic injection molders, blow molders, and extruders,
 - (J) Rendering plants, and
 - (K) EMSW conversion facilities that exclusively convert tires or biomass that have been separated from other solid waste prior to receipt by an EMSW conversion facility.
 - (2) A generator who is not a food waste self-hauler.
 - (3) A recycler who only recycles materials they have generated.
 - (4) A thrift store, automobile dismantler, building supply reclaimer or reuser, and any other person whose primary business is resale for reuse of an object or material and who meets one of the following criteria:
 - (A) Revenues associated with resale for reuse exceeds revenues associated with recycling or composting activities, or
 - (B) Tons associated with resale for reuse exceeds total tons associated with recycling or composting activities.
 - (5) A wastewater treatment plant that:

- (A) Only sends material to other wastewater treatment plants, or
- (B) Does not sell or transfer organic feedstock or intermediate products off-site.
- (6) A Maintenance District Yard.
- (7) An Emergency Transfer/Processing Operation.
- (8) An Emergency CDI Processing Operation.
- (9) A person who exclusively handles:
 - (A) Household hazardous waste,
 - (B) Hazardous waste and universal waste,
 - (C) Electronic waste,
 - (D) Medication and sharps,
 - (E) Used oil,
 - (F) Paint,
 - (G) Mattresses,
 - (H) Business-to-business post-industrial materials. Business-to-business post-industrial recyclers shall self-certify that they are exempt from registration and reporting utilizing RDRS,
 - (I) Non-hazardous secondary materials excluded from solid waste pursuant to 40 Code of Federal Regulations part 241.4, and
 - (J) Materials that are reused as defined in section 18815.2(a)(53) of this article.
- (10) A broker or transporter who moves or facilitates transactions of material from a reporting entity, but does not determine the destination of the material.
- (11) A person who collects material from a generator and delivers the material directly to an end user inside the state, unless the person is a contract hauler hauling material to land application pursuant to section 18815.4(d)(1) of this article.
- (12) A contract hauler who hauls solid waste to a reporting entity inside the state. A contract hauler shall provide information to the reporting entity pursuant to section 18815.4 of this article.
- (13) A recycler who exclusively uses material for their own end use and does not sell or transfer reportable material.

(d) For a site with multiple activities:

(1) Each disposal facility and transfer/processor located at the same site shall register for a separate RDRS number and file a separate report that provides information specific to that facility.

(2) All recycling and composting facilities or operations operated by the same person and located at the same site may register for a single RDRS number and file a single report that aggregates information on materials sent from all recycling and composting activities pursuant to section 18815.9(h) of this article.

(3) Each recycling and composting facility or operation not operated by the same person and located at the same site shall register for a separate RDRS number and file a separate report that provides information specific to that facility.

(4) For determining registration status or reporting status for an individual reporting entity, a reporting entity shall account for all cumulative tons across all activities conducted at the site by the reporting entity, utilizing the lowest applicable tonnage threshold provided in subsection (b). If any single reportable material handling activity, or the cumulative tonnages of multiple aggregated activities, exceeds the lowest applicable tonnage threshold in subsection (b), the reporting entity shall report all reportable activities conducted by this reporting entity.

(5) A recycling or composting facility or operation operated by the same person and located at the same site as a transfer/processing facility or operation may register and report under the RDRS registration number of the transfer/processing facility or operation. The reporting transfer/processor shall report pursuant to section 18815.9(h)(4) of this article.

(6) A recycling or composting facility or operation operated by the same person and located at the same site as a disposal facility may register and report under the RDRS registration number of the disposal facility. The reporting disposal facility shall report pursuant to section 18815.9(h)(5) of this article.

(e) A reporting entity operating on April 1, 2019, shall register by April 30, 2019.

(f) A reporting entity who begins operation, or changes activities such that reporting is required, after April 1, 2019, shall register within 30 days of being subject to these reporting requirements, and begin reporting for the following quarter.

(g) A reporting entity who becomes permanently inactive or closes shall notify the Department within 30 days and request that their RDRS registration status become permanently inactivated.

(h) A reporting entity who has registered and has an RDRS number, but whose activities have permanently changed such that they no longer meet the reporting requirements outlined in this section, may request that the Department permanently inactivate their RDRS registration. In that request, the reporting entity shall demonstrate

to the Department why they no longer should be registered. The burden of proof shall be on the reporting entity. The Department shall act on a request within 60 days. A reporting entity shall continue to report until and unless the Department permanently inactivates the RDRS registration. For example, a reporting entity whose activities have changed such that they now exclusively engage in the handling of materials described in subsection (c)(9), such as business-to-business post-industrial materials, may request that the Department permanently inactivate their RDRS registration status.

(i) A reporting entity who is registered but has cumulative tonnages below reporting thresholds for a reporting period shall notify the Department that they have nothing to report for the reporting period.

(j) A reporting entity shall comply with the applicable requirements specified in sections 18815.4 through 18815.8 of this article.

(k) A reporting entity who transfers, sells or sends intermediate products to an end user shall report on the tons of material aggregated by end user category for each region as set forth in this subsection.

(1) Regions shall be reported as follows:

(A) End users located within California shall be reported by county.

(B) End users located in the United States, but outside California, shall be reported by state.

(C) End users located outside the United States shall be reported by country or tribal lands.

(2) Reporting entities shall report end user categories as defined in section 18815.2(a)(24) of this article.

(3) A reporting entity may aggregate end users in small vehicles (automobiles, pickups, and small trailers) who pick up material from their facility or operation and assign them to the county in which the site is located.

(l) If a reporting entity sends material to a person and cannot determine if the person is an end user inside or outside California, a reporting entity inside California, or a recycler or composter outside California, then the reporting entity shall:

(1) Report the individual tonnages and materials as if the receiver is a reporting entity, and

(2) Supply the Department with contact information for that person in their report.

(m) Reporting entities shall commence filing reports using RDRS for the reporting period beginning July 1, 2019.

(n) A registered reporting entity shall file a report for each reporting period using RDRS, and ensure that the information they submit, other than that which was provided by a third party, is accurate, complete, and entered electronically.

(1) A reporting entity shall use information available at the time the report is due. If the reporting entity has not received the required information from a person, either directly or through RDRS, then the reporting entity shall submit all available information in their report to the Department and identify the reporting entities who have not provided them with the required information.

(2) If a reporting entity identifies an error in a previously submitted report, then they shall correct the error and notify the Department within 10 business days, unless additional time is necessary to correct the error. In no case shall the corrections be delayed more than an additional 14 days, unless agreed to by the Department.

(3) Each report to the Department shall include:

(A) The contact information and RDRS number of the person submitting the report;

(B) The contact information and RDRS number, if applicable, of each person or reporting entity receiving materials from the reporting entity, with the exception of:

(i) Material that may be aggregated by category and region as specified in subsections (k) and (l).

(C) The information required by sections 18815.4-18815.9 of this article, as applicable.

(4) If the day of a reporting deadline is a weekend or holiday, a reporting entity shall submit the report on the next business day.

(o) A reporting entity shall designate a person who has signature authority to submit the report.

(p) If the Department has reason to believe that a person has not registered or reported as required by this article, then the burden of proof shall be on that person to demonstrate otherwise, through documentation such as business records, receipts, invoices, or similar records. At the time that the Department requires a person to provide evidence that they are not required to register or report, the Department shall provide a written description of the information that has caused the Department to believe that the person is required to register and report. Nothing in this subsection is intended to require the Department to disclose the name or other identifying information regarding any individual(s) who have provided information indicating that the person may be required to report. Nothing in this section precludes the Department from inspecting a business to verify that it is conducted in a manner that meets the provisions of this subsection, or from taking any appropriate enforcement action pursuant to this article.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference:

Sections 41821.5 and 41821.6, Public Resources Code.

Section 18815.4. Reporting Requirements for Haulers.

(a) A self-hauler shall provide the jurisdiction of origin for all material delivered to each transfer/processor or disposal facility. A self-hauler does not have to report to the Department, unless they are a food waste self-hauler.

(b) Food waste self-haulers shall report to the Department the tons of food waste sent as follows:

(1) To a reporting entity inside California, report the tons of each material type, pursuant to section 18815.9 of this article, and their contact information and RDRS number.

(2) To an end user inside or outside California, report the tons of each material type, pursuant to section 18815.9 of this article, sent to each end user category, by region, pursuant to section 18815.3(k) of this article.

(3) To a recycling or composting facility or operation outside California, report the tons of each material type, pursuant to section 18815.9 of this article, by region, pursuant to section 18815.3(l) of this article.

(4) To each transfer/processor or disposal facility outside California, report the tons of each material type, pursuant to section 18815.9 of this article, sent to each person, and their contact information.

(c) A contract hauler shall provide the following information to a receiving reporting entity for all tons delivered, using the methods described in section 18815.9 of this article. A hauler shall provide the information at the time of delivery, unless both the hauler and receiving facility have previously agreed to periodic reports in lieu of providing information at the time of delivery. In all cases, the hauler shall provide the information to the receiving reporting entity within 30 days of the end of the reporting period.

(1) For solid waste hauled:

(A) A hauler shall provide the jurisdiction of origin for all material sent to each transfer/processor or disposal facility; and

(B) If requested by a transfer/processor or disposal facility, then a hauler shall provide the source sector for all material delivered to each broker or transporter, transfer/processor, or disposal facility, in tons or by percentage using the methods provided in section 18815.9 of this article.

(d) A contract hauler who takes material directly from a generator and hauls it to land application or to a person outside the state shall report to the Department. In their report to the Department, a contract hauler shall provide the following information for tons hauled, using the methods described in section 18815.9 of this article:

(1) Directly from a generator to land application, the tons of each material type sent by region, pursuant to section 18815.3(k) of this article.

(2) Directly from a generator to a person outside the state:

(A) For solid waste, the total tons by jurisdiction of origin for all material sent to a disposal facility or transfer/processor, their contact information, and an estimate of the overall source sector tons or percentages for waste sent.

(B) For green material sent to each transfer/processor or disposal facility for potential beneficial reuse, the tons by jurisdiction of origin, and the contact information of the receiving facility.

(C) For non-green material sent to each transfer/processor or disposal facility for potential beneficial reuse, the tons by material type, pursuant to section 18815.9, and the contact information of the receiving facility.

(D) For disaster debris and designated waste sent to each transfer/processor or disposal facility, the tons of each stream, and the contact information of the receiving facility.

(E) For material sent to recycling or composting facilities or operations, the tons of each material type sent by region.

(F) To end users, the tons of each material sent to each end user category by region, pursuant to section 18815.3(k) of this article.

(3) A hauler shall submit their report to the Department by the following due dates for each reporting period:

(A) Reporting period 1 due April 30,

(B) Reporting period 2 due July 31,

(C) Reporting period 3 due October 31, and

(D) Reporting period 4 due January 31.

(e) For the purposes of RDRS reporting, the Department shall not require a hauler to submit information regarding specific collection locations or customers when providing jurisdiction of origin, material type or source sector information to other reporting entities or to the Department as part of a quarterly report.

(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

(2) The Department may require a hauler to submit this information in lieu of an audit, or as part of an audit or administrative proceeding.

(f) Commencing January 1, 2022, a hauler providing an organic waste collection service pursuant to Article 3, Chapter 12 of this division shall identify, for all materials delivered to each receiving reporting entity, whether the material is:

(1) Collected from a “source separated organic waste collection stream” as defined in Section 17402 (a)(26.6) of this division.

(2) Collected from “mixed waste organics collection stream” as defined in in Section 17402 (a)(11.5) of this division that is required to be transported to a high diversion organic waste processing facility.

(g) Notwithstanding Subdivision (b), a hauler shall provide the information required by Subdivision (f) at the time of delivery.

Note: Authority Cited: Sections 40502 and 41821.5, Public Resources Code.
Reference: Sections 41821.5, 41821.6, and 42652.5, Public Resources Code and Section 39730.6, Health and Safety Code.

Section 18815.5. Reporting Requirements for Transfer/Processors.

(a) In their report to the Department, a transfer/processor shall provide the following information, using the methods described in section 18815.9 of this article:

(1) For all tons accepted:

(A) From another transfer/processor, report the tons of each of the following streams: solid waste, disaster debris, designated waste, green material potential beneficial reuse, and all other potential beneficial reuse accepted from each facility. Report the sending facility's contact information and RDRS number, if applicable.

(B) For direct-hauled material, report the total aggregated tons of each of the following streams: solid waste, disaster debris, designated waste, green material potential beneficial reuse, and all other potential beneficial reuse. The tonnages for solid waste and green material potential beneficial reuse shall be further divided by jurisdiction of origin.

(C) Include accepted residuals generated by a recycling or composting facility or operation that is reporting under the same RDRS number as a transfer/processing facility or operation, pursuant to section 18815.3(d)(4) of this article, in the total tons accepted as direct-hauled, pursuant to subsection (1)(B), assigning the tons to the jurisdiction within which the site is located.

(2) For all tons sent to recyclers, composters, brokers, transporters, or end users pursuant to section 18815.9 of this article:

(A) To a recycling or composting facility or operation with a different RDRS number inside California, report the tons by material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(B) To an end user, report the tons of each material type, pursuant to section 18815.9(a) of this article, sent to each end user category by region, pursuant to section 18815.3(k) of this article.

(C) To a broker or transporter:

(i) In cases where the final destination of the material is determined by the reporting transfer/processor, report pursuant to subsections (a)(2)(A), (a)(2)(B), and (a)(2)(E).

(ii) In cases where the final destination of the material is not determined by the reporting transfer/processor, report tons of each material type, pursuant to section 18815.9(a) of this article, sent to each broker or transporter and their contact information and RDRS number, if applicable.

(D) To a recycling or composting facility or operation with the same RDRS number, report pursuant to section 18815.9(h) of this article.

(E) To a recycling or composting facility or operation outside California, report the tons of each material type by region.

(3) For all tons sent to transfer/processors or disposal facilities inside or outside California of each of the following streams: recycling and composting, solid waste, disaster debris, designated waste, green material potential beneficial reuse, and all other potential beneficial reuse:

(A) To each transfer/processor or disposal facility, report the tons of each stream, and their contact information and RDRS number, if applicable. Report the percentage of solid waste and green material potential beneficial reuse received from each transfer/processor, and the total percentage of materials that were direct-hauled, pursuant to subsection (a)(1)(B). The percentage that was direct-hauled shall be further divided into the jurisdictions of origin of solid waste and green material potential beneficial reuse.

(B) For all tons of solid waste, the percentage that was direct-hauled, pursuant to subsection (a)(1)(B), shall be divided into source sectors, using methods described in section 18815.9(c) of this article. Source sector shall be reported to the department as a facility-wide estimate.

(C) For all other material sent for potential beneficial reuse to a landfill or other transfer/processor inside or outside California, report the tons sent to each facility by material type, pursuant to section 18815.9(a)(3) of this article, and the facility's contact information and RDRS number, if applicable.

(D) For material sent for recycling to each transfer/processor or disposal facility with a different RDRS number inside California, report the tons by material type, and the facility's contact information and RDRS number, if applicable.

(E) For material sent for recycling to each transfer/processor or disposal facility outside California, report the tons by material type and region.

(b) A transfer/processor shall report to the Department by the following due dates for each reporting period:

(1) Reporting period 1 due May 31,

(2) Reporting period 2 due August 31,

(3) Reporting period 3 due November 30, and

(4) Reporting period 4 due February 28.

(c) With the exception of reporting entities who fail to provide required information, for the purposes of RDRS reporting, the Department shall not require a transfer/processor to submit information regarding the identities of individual haulers when providing jurisdiction of origin, or source sector information to the Department as part of a quarterly report. The Department shall not require a transfer/processor to submit information regarding the identities of individual end users when providing material type or region to the Department as part of their report.

(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

(2) The Department may require a transfer/processor to submit this information in lieu of an audit, or as part of an audit or administrative proceeding.

(d) Commencing with the first reporting period in 2022, and in each subsequent reporting period thereafter:

(1) A reporting receiving facility that receives material from a "mixed waste organic collection stream" as defined in Section 17402 (a)(11.5) of this division shall, for the purposes of determining the annual average organic content recovery rate for organic waste received from the mixed waste organic collection stream as specified in Sections 18984.3 and 17409.5.1 of this division, report the following to the Department:

(A) The sum of outgoing weights of organic waste recovered from the mixed waste organic collection stream as determined pursuant to Section 17409.5.1(c)(1) of this division.

(B) The sum of outgoing weights of organic waste from the mixed waste organic collection stream that is sent to disposal as determined pursuant to Section 17409.5.1(c)(2) of this division.

(C) The sum of records in Sections 17414.2(a)(2), 17414.2(a)(3), and 17414.2(a)(6) of outgoing and incoming weights of material from the mixed waste organic collection stream.

(2) A reporting receiving facility that receives material from a “source separated organic waste collection stream” as defined in Section 17402(a)(26.6) shall report the following to the Department:

(A) The sum of outgoing weights of organic waste recovered from the source separated organic collection stream as determined pursuant to Section 17409.5.1 (d)(1) of this division.

(B) The sum of outgoing weights of organic waste recovered from the source separated organic collection stream as determined pursuant to Section 17409.5.1(d)(2) of this division.

(C) The sum of weights required to be recorded pursuant to Sections 17414.2 (a)(4), 17414.2(a)(5), and 17414.2 (a)(7) of outgoing and incoming weights of material from the source separate organic waste collection stream.

(e) The Department shall determine if a facility meets or exceeds the recovery efficiency percentages as specified in the definition of a “high diversion organic waste processing facility” in Section 18982(a)(33) in the following manner:

(1) The Department shall determine the quarterly recovery efficiency by dividing the total weight of recovered organic waste reported in Subdivision (d)(1)(A) [Recovered Organics (RO)] by the combined total weight of recovered and disposed organic waste reported in Subdivision (d)(1)(A) and Subdivision (d)(1)(B) [Total Available Mixed Waste Organics(TAMWO)]: $RO/TAMWO = \text{Recovery Efficiency}$.

(2) The Department shall use the total weights for the immediately previous four quarters to determine the facility’s annual recovery efficiency which shall constitute the annual average mixed waste organic content recovery rate for the purposes of section 18984.3 of this division.

(3) The annual average mixed waste organic content recovery rate shall be determined by using the last four quarterly rates. A new annual average shall be calculated each quarter.

(f) The Department shall determine if a facility meets or exceeds the annual average source separated organic content recovery rates specified for a “designated source separated organic waste facility” as defined in Section 18982(a)(14.5) of this division in the following manner:

(1) The Department shall determine the quarterly recovery efficiency by dividing the total weight of recovered organic waste reported in Subdivision (d)(2)(A)[Recovered Organics (RO)] by the combined total weight of recovered and disposed organic waste reported in Subdivision (d)(2)(A) and Subdivision (d)(2)(B) [Total Available Source Separated Organic Waste (TASSOW)]: $RO/TASSOW = \text{Recovery Efficiency}$.

(2) The Department shall use the total weights for the immediately previous four quarters to determine the facility's annual recovery efficiency which shall constitute the annual average source separated organic content recovery rate for the purposes of Sections 18982(a)(14.5) and 18998.1 of this division. A new annual average shall be calculated each quarter.

(g) A reporting receiving facility subject to the requirements of Section 17409.5.7 shall report the following to the Department:

(1) The average ratio of remnant organic waste to non-organic waste measured in the gray container waste evaluation samples performed by the facility pursuant to Section 17409.5.7.

Note: Authority Cited: Sections 40502 and 41821.5, Public Resources Code.
Reference: Sections 41821.5, 41821.6 and 42652.5, Public Resources Code, and Section 39730.6, Health and Safety Code.

Section 18815.6. Reporting Requirements for Disposal Facilities.

(a) All permitted disposal facilities shall report each quarter to the Department. In their report to the Department, a disposal facility shall provide the following information for all tons disposed, with the exception of tires and biomass that have been separated from other solid waste prior to receipt by an EMSW conversion facility, using the methods in section 18815.9 of this article:

(1) For all tons received for disposal from a transfer/processor, report the tons of each stream disposed, including solid waste, disaster debris, and designated waste from each transfer/processor, and their contact information and RDRS number, if applicable.

(2) For all direct-hauled material, report the total aggregated tons of each of the following streams: solid waste, disaster debris, and designated waste.

(A) Report the tons of solid waste disposed from each jurisdiction of origin.

(B) Report an estimate of the aggregated tons, or overall percentage, from each source sector, using methods described in section 18815.9(c) of this article.

(C) For direct-hauled disaster debris not commingled with other solid waste, report the tons disposed.

(D) For direct-hauled designated waste not commingled with other solid waste, report the tons disposed.

(E) Include accepted residuals generated by a recycling or composting facility or operation that is reporting under the same RDRS number as a disposal facility, pursuant to section 18815.3(d)(5) of this article, in the total tons accepted as direct-hauled, assigning the tons to the jurisdiction within which the site is located.

(b) In their report to the Department, a disposal facility shall provide the following information for all tons sent off-site, using the methods in section 18815.9 of this article. If materials are created, separated, or recovered as a result of on-site activities, then they are considered as having been generated by the disposal facility.

(1) For solid waste generated on-site and sent to a disposal facility or transfer/processor inside or outside California, report the tons sent for disposal or potential beneficial reuse to each facility by material type, pursuant to section 18815.9(a) of this article, and the facility's contact information and RDRS number, if applicable.

(2) For material generated by the disposal facility, report pursuant to section 18815.9 of this article for tons sent:

(A) To each recycling or composting facility or operation with a different RDRS number, or for recycling at each transfer/processor with a different RDRS number inside California, by material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(B) To an end user, by each end user category by region, pursuant to section 18815.3(k) of this article, and by material type, pursuant to section 18815.9(a)(2) of this article.

(C) To a broker or transporter:

(i) In cases where the final destination of the material is determined by the reporting disposal facility, report pursuant to subsections (b)(2)(A) and (b)(2)(B).

(ii) In cases where the final destination of the material is not determined by the reporting disposal facility, report tons of each material type, pursuant to section 18815.9(a) of this article, sent to each broker or transporter and their contact information and RDRS number, if applicable.

(D) To a recycling or composting facility or operation with the same RDRS number, report pursuant to section 18815.9(h) of this article.

(E) To a recycling or composting facility or operation outside California, or for recycling at each transfer/processor with a different RDRS number outside California, report the tons of each material type by region.

(3) If a disposal facility receives material and directly transfers that material to a transfer/processor or another disposal facility inside or outside California, then that material is not considered as having been generated on-site. The sending disposal facility shall register and report on that material according to the requirements for

transfer/processors in section 18815.5 of this article.

(c) In their report to the Department, a disposal facility shall provide the following information for the total tons accepted for beneficial reuse, using the methods in section 18815.9 of this article:

(1) For waste-derived material accepted for beneficial reuse from a transfer/processor, report the tons of each material accepted for use from each transfer/processor and their contact information and RDRS number, as follows:

(A) Report the tons of each material type accepted for use as ADC.

(B) Report the tons of each material type accepted for use as AIC.

(C) Report the tons of each material type accepted for use in construction.

(D) Report the tons of each material type accepted for use in landscaping and erosion control.

(2) For direct-hauled green material accepted for beneficial reuse:

(A) Report the tons by jurisdiction of origin accepted for use as ADC.

(B) Report the tons by jurisdiction of origin accepted for use as AIC.

(C) Report the tons by jurisdiction of origin accepted for use in construction.

(D) Report the tons by jurisdiction of origin accepted for use in landscaping and erosion control.

(3) For direct-hauled waste-derived material, other than green material, accepted for beneficial reuse:

(A) Report the tons of each material type accepted for use as ADC.

(B) Report the tons of each material type accepted for use as AIC.

(C) Report the tons of each material type accepted for use in construction.

(D) Report the tons of each material type accepted for use in landscaping and erosion control.

(d) A disposal facility shall report to the Department by the following due dates for each reporting period:

(1) Reporting period 1 due June 30,

(2) Reporting period 2 due September 30,

(3) Reporting period 3 due December 31, and

(4) Reporting period 4 due March 31.

(e) With the exception of reporting entities who fail to provide required information, for the purposes of RDRS reporting, the Department shall not require a disposal facility to submit information regarding the identities of individual reporting entities when providing jurisdiction of origin, material type, or source sector information to the Department as part of a quarterly report. The Department shall not require a disposal facility to submit information regarding the identities of individual end users when providing material type or region to the Department as part of their report.

(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

(2) The Department may require that a disposal facility submit this information in lieu of an audit, or as part of an audit or administrative proceeding.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5 and 41821.6, Public Resources Code.

Section 18815.7. Reporting Requirements for Recycling and Composting Facilities and Operations.

(a) In their report to the Department, a recycling or composting facility or operation shall provide the following information for all tons handled, using the methods described in section 18815.9 of this article:

(1) For materials sent for disposal or potential beneficial reuse to each transfer/processor or disposal facility with a different RDRS number inside or outside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(2) For materials sent to each recycling or composting facility or operation with a different RDRS number, or for recycling at each transfer/processor with a different RDRS number inside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(3) For materials sent to a recycling or composting facility or operation with the same RDRS number, report pursuant to section 18815.9(h) of this article.

(4) For intermediate products sent to end users inside or outside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, sent to each end user category by region, pursuant to section 18815.3(k) of this article.

(5) For materials sent to a broker or transporter:

(A) In cases where the final destination of the material is determined by the reporting recycling or composting facility or operation, report pursuant to subsections (a)(1), (a)(2), (a)(4), and (a)(6), as applicable.

(B) In cases where the final destination of the material is not determined by the reporting recycling or composting facility or operation, report tons of each material type, pursuant to section 18815.9(a) of this article, sent to each broker or transporter and their contact information and RDRS number, if applicable.

(6) For materials sent to each recycling or composting facility or operation outside California, or for recycling at a transfer/processor outside California, report the tons of each material type by region.

(b) A recycling or composting facility or operation is not required to report on material sold for reuse or transferred for reuse.

(c) A recycler who handles business-to-business post-industrial materials, but also handles materials that do not meet the criteria in section 18815.2(a)(8) of this article, shall:

(1) Report as a recycler pursuant to this section for all materials that do not meet the criteria for business-to-business post-industrial recycling, and

(2) Not include information or tonnages associated with the business-to-business post-industrial materials recycled as defined in section 18815.2(a)(8) of this article.

(d) A recycling or composting facility or operation shall report to the Department by the following due dates for each reporting period:

(1) Reporting period 1 due May 31,

(2) Reporting period 2 due August 31,

(3) Reporting period 3 due November 30, and

(4) Reporting period 4 due February 28.

(e) With the exception of other reporting entities, for the purposes of RDRS reporting, the Department shall not require a recycling and composting facility or operation to submit information regarding the identities of individual end users, suppliers, or customers when providing material type information to the Department as part of a quarterly report.

(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

(2) The Department may require that a recycler/composter submit this information in lieu of an audit, or as part of an audit or administrative proceeding.

(f) Commencing with first reporting period in 2022, and in each subsequent reporting period thereafter:

(1) A recycling or compost facility or operation shall, if applicable, additionally report the following to the Department:

(A) The percentage of organic waste contained in materials sent to landfill disposal as calculated pursuant to Section 17869(e)(1) or 17896.45(a)(1).

Note: Authority Cited: Sections 40502 and 41821.5, Public Resources Code.

Reference: Sections 41821.5, and 41821.6 and 42652.5, Public Resources Code and 39730.6, Health and Safety Code.

Section 18815.8. Reporting Requirements for Brokers and Transporters.

(a) In their report to the Department, a broker or transporter shall provide the following information for all tons of material for which they determined the destination, using the methods described in section 18815.9 of this article:

(1) For materials sent for disposal or potential beneficial reuse to each transfer/processor or disposal facility inside or outside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(2) For materials sent to each recycling or composting facility or operation, or for recycling at each transfer/processor with a different RDRS number inside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, and their contact information and RDRS number, if applicable.

(3) For intermediate products sent to end users inside or outside California, report the tons of each material type, pursuant to section 18815.9(a) of this article, sent to each end user category by region, pursuant to section 18815.3(k) of this article.

(4) For materials sent to another broker or transporter:

(A) In cases where the final destination of the material is determined by the reporting broker or transporter, report pursuant to subsections (a)(1), (a)(2), and (a)(3), as applicable.

(B) In cases where the final destination of the material is not determined by the reporting broker or transporter, report tons of each material type, pursuant to section 18815.9(a) of this article, sent to each receiving broker or transporter and their contact information and RDRS number, if applicable.

(5) To each recycling or composting facility or operation outside California, or for

recycling at each transfer/processor with a different RDRS number outside California, report the tons of each material type by region.

(b) A broker or transporter shall report to the Department by the following due dates for each reporting period:

- (1) Reporting period 1 due May 31,
- (2) Reporting period 2 due August 31,
- (3) Reporting period 3 due November 30, and
- (4) Reporting period 4 due February 28.

(c) With the exception of other reporting entities, for the purposes of RDRS reporting, the Department shall not require a broker or transporter to submit information regarding the identities of customers or destinations when providing material type information to the Department as part of a quarterly report.

(1) A jurisdiction is not precluded from requiring this information through franchise agreements, contracts, local ordinances, section 41821.5(g) of the Public Resources Code, or other authority it may have.

(2) The Department may require that a broker/transporter submit this information in lieu of an audit, or as part of an audit or administrative proceeding.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5 and 41821.6, Public Resources Code.

Section 18815.9. Methods.

(a) When required by this article, a reporting entity shall use the following methods to report material types:

(1) With the exception of food waste self-haulers, recycling and composting facilities and operations, and entities reporting potential beneficial reuse material, a reporting entity shall report all material, including residuals, sent to a disposal facility as solid waste and is not required to further sort or characterize this material.

(A) Food waste self-haulers shall report pursuant to section 18815.4(b) of this article.

(B) Recycling and composting facilities and operations shall report by material type pursuant to subsection (a)(2) for residuals and separated materials sent to a disposal facility.

(C) Entities reporting potential beneficial reuse material shall report pursuant to subsection (a)(3).

(2) A reporting entity shall report materials at the level of segregation at the time they

were sold or transferred, as follows:

(A) A reporting entity shall report a homogeneous material or individual grade of material as that individual material type (e.g., HDPE, aluminum, concrete, or mulch).

(B) A reporting entity shall report combinations of various materials within a single material category based on applicable industry standards (e.g., ferrous metals, mixed glass, mixed paper, or rigid plastics). A reporting entity is not required to further sort or characterize this material.

(C) A reporting entity shall report mixed materials from several categories as mixed materials or commingled recyclables based on applicable industry standards. A reporting entity is not required to further sort or characterize this material.

(D) A reporting entity shall report solid waste mixed with other materials as solid waste. A reporting entity is not required to further sort or characterize this material.

(3) A reporting entity shall:

(A) Report all ADC and AIC by the following material types:

(i) Ash and cement kiln dust materials,

(ii) Construction and demolition wastes and materials,

(iii) Compost materials, which include residuals left over from the composting process,

(iv) Green material,

(v) Contaminated sediment, dredge spoils, foundry sands, energy resource exploration, and production wastes,

(vi) Processed construction and demolition wastes and materials,

(vii) Shredded tires,

(viii) Sludge and sludge-derived materials,

(ix) Treated automobile shredder waste, and

(x) Other material types approved for beneficial reuse by the enforcement agency, such as materials left over after the material recovery process. The reporting entity shall specify the approved material type in their report to the Department.

(B) Report all materials used for construction, landscaping, and erosion control on site by material type, pursuant to subsection (a)(2).

(C) Not include tons of clean or contaminated soil used as cover material or for other uses at a landfill.

(b) When required by this article, a reporting entity shall use the following methods to determine jurisdiction of origin for material sent to disposal or for green material beneficial reuse:

(1) A hauler shall provide the jurisdiction of origin information at the time of delivery, unless both the hauler and receiving facility have agreed to periodic reports in lieu of providing information at the time of delivery. The hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. The hauler shall use any of the following sources of information to estimate the percentage of solid waste from each jurisdiction:

(A) Actual tons collected from each jurisdiction.

(B) Total volume of bins emptied from each jurisdiction.

(C) Billing records for customers in each jurisdiction.

(D) Company dispatcher records of hauling routes and generator locations.

(2) A transfer/processor or disposal facility shall determine the jurisdiction of origin for each load of material accepted by asking each person bringing materials at the time of delivery, using periodic reports from the entities delivering materials, or using other methods to capture the information on each load as it arrives, unless it meets one of the following criteria:

(A) A transfer/processor or disposal facility without a gatehouse attendant present during all business hours shall collect jurisdiction of origin information on each load for all hours in which an attendant is present. At minimum, a gatehouse attendant must be present during all business hours of one week per quarter. If this requirement is not met, then a facility shall additionally conduct an origin survey no less frequently than once per reporting period and for at least one week in duration. During the survey week(s), the facility shall survey every load of material received to determine the jurisdiction of origin. A facility shall apply the jurisdiction percentages obtained during the survey week(s) to tonnages that have not been assigned to a jurisdiction of origin in the reporting period.

(B) A transfer/processor or disposal facility without a gatehouse attendant present during any business hours that only accepts material from specified jurisdictions may assign the solid waste to those jurisdictions based on facility usage agreements and restrictions, property records, or other records that are representative of the jurisdictional breakdown of the material received.

(C) A transfer/processor or disposal facility without a gatehouse attendant present during any business hours that has no representative basis for determining jurisdiction of origin may assign the solid waste to the jurisdiction in which the facility is located.

(3) A transfer/processor shall determine jurisdiction of origin for solid waste and green material potential beneficial reuse sent to a disposal facility or another

transfer/processor based on allocations of inbound materials. A transfer/processor may adjust the allocations of inbound percentages from facilities or haulers based on facility-specific practices, such as:

(A) Tracking and sorting individual loads,

(B) Segregating the flows from different jurisdictions, or

(C) Gathering other relevant information on the composition and recoverability of the materials from each facility or jurisdiction.

(4) A recycler, composter, broker, transporter, or disposal facility shall provide the jurisdiction of origin for all solid waste or green material potential beneficial reuse sent to each transfer/processor or disposal facility. The jurisdiction of origin of this material shall be the jurisdiction within which the recycler, composter, or disposal facility is located. For brokers and transporters, the jurisdiction of origin shall be the jurisdiction within which the reporting entity supplying the material is located.

(c) When required by this article, a transfer/processor or disposal facility shall estimate the overall tonnages or percentages from each source sector for materials sent for disposal using any of the following methods:

(1) Assigning source sector based on vehicle type, such as:

(A) Small vehicles, such as automobiles, pickups and small trailers, and flat beds as “self-hauled.”

(B) Side loaders as “contract-hauled single-family residential.”

(C) Front loaders and rear loaders as “contract-hauled commercial/multi-family.”

(2) Assigning source sector based on billing records, such as:

(A) Cash accounts as “self-hauled.”

(B) Accounts with jurisdictions or their haulers for residential routes as “contract-hauled single-family residential.”

(C) Accounts with jurisdictions or their haulers for commercial routes as “contract-hauled commercial/multi-family.”

(3) Using periodic reports from contract haulers on the source sectors of their routes. A transfer/processor or disposal facility may request, but not require, periodic reports from a hauler.

(4) Asking the driver delivering each incoming load.

(5) Assigning disaster debris and designated waste as “self-hauled.”

(6) Assigning residual disposal from, and material sent by, recyclers, composters, brokers, transporters and disposal facilities to the “self-hauled” source sector.

(d) If asked for information on source sector, then a contract hauler shall provide the information at the time of delivery, unless both the contract hauler and receiving facility have previously agreed to periodic reports in lieu of providing information at the time of delivery. In these cases, a contract hauler shall provide the periodic report to the receiving reporting entity within 30 days of the end of the reporting period. When providing source sector information, a hauler shall use any of the following methods to estimate the overall tonnages or percentages of disposal from each source sector sent to the receiving facility:

(1) Assigning source sector based on vehicle type, such as:

(A) Side loaders as “contract-hauled single-family residential.”

(B) Front loaders and rear loaders as “contract-hauled commercial/multi-family.”

(2) Assigning source sector based on billing records, such as:

(A) Accounts with jurisdictions for residential routes as “contract-hauled single-family residential.”

(B) Accounts with jurisdictions for commercial routes as “contract-hauled commercial/multi-family.”

(C) Accounts with businesses and apartments as “contract-hauled commercial/multi-family.”

(3) Assigning source sector by using dispatcher records of hauling routes, total bin volumes from each source sector, or total weights from each source sector.

(4) Assigning disaster debris and designated waste as “self-hauled.”

(e) If a transfer/processor or disposal facility lacks an attendant and is unable to estimate source sector using one of the methods in this section, then the reporting entity shall assign all tonnage to the sector that makes up most of the delivered material based on operator observations of the site traffic or material disposed.

(f) If a method in this section is used, then inaccuracies or errors in source sector reporting shall not be subject to penalties described in section 18815.10 of this article.

(g) When required by this article, a reporting entity shall use the following methods to report tonnages:

(1) A reporting entity who uses certified scales to measure a transaction by weight shall use that measurement, and not an estimate based on volume, when compiling and submitting their report to the Department.

(2) A reporting entity who does not use certified scales, but uses non-certified scales to measure a transaction by weight shall use that measurement, and not an estimate based on volume, when compiling and submitting their report to the Department.

(3) A reporting entity shall use scales to measure tons, unless they meet one of the following exceptions:

(A) If a transfer/processor or disposal facility records self-haul loads by volume, then they may estimate disposal tonnages using volume-to-weight conversion factors. If a transfer/processor or a disposal facility records self-haul loads by vehicle size and/or type, then they may estimate the disposal tonnages using weight estimates for each vehicle size and/or type.

(B) If a transfer/processor weighs total inbound contract-hauled tons and the total tons sent to disposal, then they may use the difference in weight to estimate self-haul sector.

(C) If a transfer/processor accepts an annual average of less than 100 tons of material per operating day, or less than 200 tons per operating day if located in a rural city or county, as set forth in sections 40183 and 40184 of the Public Resources Code, then they may use volume-to-weight conversion factors or report tonnages weighed at the receiving facility.

(D) If a reporting entity sells or transfers materials, other than solid waste, based on volume, then they may use material-specific volume-to-weight conversion factors to estimate tons.

(E) When required by subsection (h), a reporting entity who sends material to another reporting entity with a different RDRS number located at the same site using a conveyance system without scales, shall estimate and report tonnages transferred by using volume-to weight-conversion factors, flow rates, or belt scales.

(4) A disposal facility may use volume-to-weight conversion factors under the following conditions:

(A) The disposal facility does not have access to scales and does not receive more than 4,000 tons of solid waste per year from contract haulers, not including disaster debris.

(B) The disposal facility is located in an area prone to inclement weather for three or more months of the year, which does not allow for the adequate operation and maintenance of scales.

(C) The disposal facility is so remote that the availability of an electric utility to power the scales is prohibitive.

(5) A reporting entity shall indicate in their report if conversion factors were used to estimate tons, retain documentation on the basis and usage of any volume-to-weight conversion factors, and update the factors every three (3) years. The Department may require a reporting entity to revise the factors and reports if the Department determines

that volumetric conversion factors are not satisfactory.

(h) Tonnages of material transferred within a reporting entity or between reporting entities located at the same site shall be recorded and reported as described below. Refer to subsection (g) for situations in which volume-to-weight conversion factors are allowed to estimate material tonnages.

(1) Except as provided in subsections (h)(4) and (h)(5), facilities and operations reporting with the same RDRS number and located at the same site are not required to report the tonnages of material transferred between each facility or operation to the Department.

(2) A reporting entity who sends separated recyclables or separated organics to another reporting entity with a different RDRS number located at the same site with the same operator is not required to report the tonnages of separated recyclable or organic material transferred between each facility or operation to the Department. The reporting entity responsible for the off-site sale or transfer of the aggregated material shall report the appropriate tonnages to the Department.

(3) A reporting entity who sends solid waste or material for potential beneficial reuse to a transfer/processor or disposal facility with a different RDRS number located at the same site shall report this information to the Department in the same manner prescribed in subsections (a), (b) and (c).

(4) A transfer/processor shall include the total tons of solid waste generated on-site by recyclers and composters under the same RDRS number and accepted by the transfer/processor in the total tons accepted pursuant to section 18815.5(a)(1)(C) of this article.

(5) A disposal facility shall include the total tons of solid waste generated on-site by recyclers and composters under the same RDRS number and accepted by the disposal facility in the total tons accepted pursuant to section 18815.6(a)(2)(E) of this article.

(i) In their report to the Department, a reporting entity shall identify which methods set forth in this section they used in the preparation of the report.

(j) When required by this article, a reporting entity shall categorize material sent to each person or end user category into one or more of the following streams, and report to the Department in the manner described below:

(1) Solid waste disposal, which requires jurisdiction of origin, source sector, and RDRS number and contact information of the receiving facility or operation, if applicable. Recyclers, composters, and food waste self-haulers shall additionally report material type pursuant to subsection (a)(1).

(2) Disaster debris disposal, which requires RDRS number and contact information of the receiving facility or operation, if applicable.

(3) Designated waste disposal, which requires RDRS number and contact information of the receiving facility or operation, if applicable.

(4) Green material potential beneficial reuse, which requires jurisdiction of origin, and RDRS number and contact information of the receiving facility or operation, if applicable.

(5) Non-green material potential beneficial reuse, which requires material type, and RDRS number and contact information of the receiving facility or operation, if applicable.

(6) Recycling and composting, which requires material type, and RDRS number and contact information of the receiving facility or operation, if applicable.

(7) Broker or transporter, which requires material type, and RDRS number and contact information of the receiving facility or operation, if applicable.

(8) End user, which requires material type by end user category and region, pursuant to section 18815.3(k) of this article. Reporting entities are not required to provide the contact information of individual end users in their reports to the Department.

(9) If the person to whom material was sent is located outside California, and is not obligated to report to the Department, a reporting entity is not required to provide the contact information of that person to the Department for material streams described in subsections (j)(6) and (j)(7).

(10) Except for material sent to a broker, transporter, or end user, if a reporting entity is unsure or does not know into which stream a material being sent should be categorized, they shall report that material stream based on the following defaults:

(A) For material sent to a transfer/processor or disposal facility, report pursuant to subsection (j)(1).

(B) For material sent to a recycler or composter, report pursuant to subsection (j)(6).

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.10. Procedure for Imposing Civil Liabilities.

(a) The Department shall impose administrative civil penalties in accordance with the procedures set forth in this section.

(b) Prior to initiating any enforcement proceeding, the Department shall notify a reporting entity in writing of any alleged failure to comply with this article. The notification will include all of the following:

(1) A description and dates of the alleged compliance failures.

- (2) A compliance deadline that allows for reasonable time to remedy.
 - (3) Any potential penalties that may be assessed if the compliance deadline is not met.
 - (4) Notification that if the alleged violation or compliance failure is corrected by the deadline, then no further enforcement will be pursued by the Department.
 - (5) Notification that if there are extenuating circumstances, then the Department can extend the compliance deadline.
- (c) Civil penalties set forth in Penalty Table I may be imposed as follows:
- (1) Each violation shall be multiplied by the number of days the reporting entity was in violation. The number of days the violation occurred will begin one day after the compliance deadline the Department issued in its written notification of an alleged failure to comply to the reporting entity. If the violation is not corrected pursuant to subsection (b), then the following within Penalty Table I applies (All penalties are per day the reporting entity is in violation.):

Penalty Table I

Authority	Description of Violation	1st Violation	2nd Violation	3rd and subsequent Violation(s)
Public Resources Code 41821.5(d)	A reporting entity fails to submit information on time as required by this article.	\$500	\$1,000	\$5,000
Public Resources Code 41821.5(d)	A reporting entity refuses to submit information required by this article.	\$1,000-\$5,000	\$1,000-\$5,000	\$5,000
Public Resources Code 41821.5(e)	A reporting entity knowingly or willfully files a false report, or a reporting entity alters, cancels, or obliterates entries in the records for the purpose of falsifying the records as required by this article.	\$500-\$10,000	\$2,500-\$10,000	\$5,000-\$10,000
Public Resources Code 41821.5(e)	A reporting entity refuses to allow the Department or any of its representatives to inspect or examine records as required by this article.	\$500-\$2,500	\$2,500-\$5,000	\$5,000
Public Resources Code 41821.5(e)	A reporting entity fails to keep any records for inspection as required by this article.	\$500	\$500-\$2500	\$1,000-\$5,000

(d) Once a potential penalty range from Penalty Table I is determined, the Department shall take the following factors into consideration in determining the total penalty amount to be requested in an Administrative Accusation:

- (1) Whether the violation(s) were intentional.

(2) Whether the violation(s) demonstrate a chronic pattern of non-compliance with the regulations set forth in this article.

(3) Whether the violation(s) were due to circumstances beyond the reasonable control of the reporting entity or were unavoidable under the circumstances.

(4) Whether the reporting entity acted in good faith to comply, including correcting the violation(s) in a timely manner.

(5) Whether the violation(s) were voluntarily and promptly reported to appropriate authorities prior to the commencement of an investigation by the enforcement agency.

(6) The circumstances, extent, and gravity of any violation(s).

(e) The Administrative Accusation may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service using the same service procedures described in section 415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who are registered with RDRS, the mailing address or addresses provided at the time of registration will be used. Proof of service of the Administrative Accusation shall be the certified mail receipts or registered mail receipts proving the accusation and accompanying materials were sent to respondent by certified mail or registered mail.

(f) In any case in which it is determined that more than one reporting entity is responsible and liable for a violation, each reporting entity may be held jointly and severally liable for an administrative civil penalty.

(g) Reports shall be based on the information provided to a reporting entity at the time the report is due. The Department shall not hold reporting entities liable for incomplete or inaccurate information provided by a hauler or other third party. If a reporting entity is aware that a third party has failed to provide information or has provided incorrect information, then the reporting entity shall identify the third party and the alleged error or omission, as required by section 18815.3(n)(1) of this article. To the extent that the Department identifies an impact of incomplete or inaccurate information reported by a hauler or other third party on a specific jurisdiction, the Department shall notify that jurisdiction.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.11. Record Retention Requirements for a Reporting Entity.

(a) A reporting entity shall retain a copy of all reports and supporting records that were

used in creating those reports at their place of business for five (5) years.

(b) As applicable to the type of reporting entity, records to be retained shall include, but are not limited to:

(1) The specific generator locations of a load of solid waste to verify the jurisdiction of origin for disposed waste.

(2) Bills of lading, receipts, monthly billing statements to any person transferring material, and contact information for those entities.

(3) Daily log entries prepared by the reporting entity detailing the acceptance, transport, or delivery of material, the associated amounts, sources, material types, jurisdictions of origin, and the associated dates.

(4) Weight tags for individual haulers, transfer or other loads that identify the hauler, vehicle, vehicle type, quantity and unit of measure, date, waste type, and jurisdiction of origin of material delivered, transported, or received.

(5) All base data, methods and calculations used to derive information in a report.

(c) A reporting entity shall maintain the documentation described in this section in a usable format, either electronically or on paper.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.12. Confidentiality of Reports and Records and Record Review Requirements for a Reporting Entity.

(a) A reporting entity shall provide access to the records required by this article to any authorized representative of the Department upon request.

(b) If the Department requests copies of specific records either prior to, in lieu of, or after an inspection, then a reporting entity shall provide the copies within 10 business days, unless additional time is necessary to search for, collect, and examine records to respond to the request. In no case shall the copies be delayed more than an additional 14 days, unless agreed to by the Department.

(c) A reporting entity shall provide records to the Department electronically, and in a format that will allow effective review, such as searchable portable document format (PDF), spreadsheet, or other searchable format.

(d) Pursuant to section 41821.5(g)(7) of the Public Resources Code, a reporting entity may redact the records subject to inspection or copying by the Department before inspection or submittal, to exclude confidential pricing information contained in the records, such as contract terms and conditions, including information on pricing, credit terms, volume discounts, and other proprietary business terms.

(e) Pursuant to section 41821.5(g)(1) of the Public Resources Code, the records maintained by a reporting entity to support a report shall be confidential and shall not be subject to disclosure by the Department under the California Public Records Act [Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code].

(f) Pursuant to section 41821.5(i) of the Public Resources Code, a reporting entity may designate information as a trade secret and request that the records provided to the Department in accordance with this section be exempt from disclosure. The Department will review the request as provided in Public Resources Code section 40062 and implementing regulations.

(g) For purposes of this article, whether retained by a reporting entity or submitted to the Department as part of a report required by this article or as part of an audit or in lieu of an audit, the following types of records shall be deemed to be confidential and not subject to disclosure by the Department, whether or not the record is identified as such by the person furnishing the information to the Department, without the need to follow the procedure set forth in section 17046(c):

(1) Weight tickets,

(2) Customer lists,

(3) Pricing or similar financial data, or

(4) Any other information, from which the identity of any account, customer, vendor, buyer, supplier, end user, or other source or transferee of recyclable material may be reasonably ascertained, such as name, address, or other identifying information.

(h) Pursuant to section 41821.6 of the Public Resources Code, in order to ensure that records required pursuant to this article are accurate and properly maintained, in addition to inspecting all relevant records, the Department may conduct audits, perform site inspections, observe facility operations, and otherwise investigate the recordkeeping and reporting of persons subject to the requirements of this article. Any records, reports, notes, studies, drawings, schematics, photographs, or trade secrets, as defined in section 3426.1 of the Civil Code, obtained, produced, or created by the Department in connection with or arising from such audits, inspections, or observations are confidential, shall not be subject to disclosure under the California Public Records Act [Chapter 3.5 (commencing with section 6250) of Division 7 of Title 1 of the Government Code], and shall be deemed confidential and not subject to disclosure according to subsection (g).

(i) Government entity requests for inspections or records shall be subject to the provisions of Public Resources Code section 41821.5(g) and shall not be subject to the Department's compliance procedures outlined in sections 18815.10, 18815.11 and 18815.12 of this article.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference:

Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Section 18815.13. Complaints Regarding Non-Compliance.

(a) In their quarterly report to the Department, a reporting entity shall inform the Department of specific allegations of non-compliance by another reporting entity who fails to provide them with the information required by this article. The reporting entity shall provide the relevant and specific details for each occurrence reported.

(b) In their quarterly report to the Department, a reporting entity shall inform the Department if they have evidence suggesting the information provided to them by another reporting entity, as required by this article, is inaccurate. The reporting entity shall provide the relevant and specific details for each occurrence reported.

(c) Affected or involved parties who are not reporting entities, such as jurisdictions, may report specific allegations of non-compliance by a reporting entity. The party reporting the alleged non-compliance shall identify the reporting entity and the facts upon which their allegation is based so the Department may investigate appropriately.

Note: Authority cited: Sections 40502 and 41821.5, Public Resources Code. Reference: Sections 41821.5, 41821.6, 41821.7 and 41821.8, Public Resources Code.

Article 9.30. Adjustment Method for Calculating Changes in Waste Generation Tonnage [Renumbered]

Appendix A

1. CIWMB 36 State of California Oil Recycling Program Fee Exemption Certificate
2. CIWMB 57 Plastic Trash Bag Manufacturer Certification
3. CIWMB 58 Plastic Trash Bag Wholesaler Certification
4. CalRecycle 60 Waste Tire Hauler Registration Application
5. CIWMB 61 Waste Tire Hauler Bond
6. CIWMB 62 Waste Tire Hauler Manifest
7. CIWMB 81 Registration Permit
8. CIWMB 83 Registration Permit Application
9. CIWMB 90 Standardized Contaminated Soil Solid Waste Facilities Permit
10. CIWMB 98 Standardized Nonhazardous Ash Solid Waste Facility Permit
11. CalRecycle 140 Trust Agreement

12. CalRecycle 141 Performance Bond
13. CalRecycle 142 Financial Guarantee Bond
14. CalRecycle 143 Irrevocable Letter of Credit for Closure Costs
15. CalRecycle 144 Enterprise Fund for Financial Assurances
16. CalRecycle 145 Trust Agreement
17. CalRecycle 146 Certificate of Liability Insurance
18. CalRecycle 147 Liability Insurance Endorsement
19. CalRecycle 148 Certificate of Self-Insurance and Risk Management
20. CalRecycle 149 Instructions for the Letter from the Chief Financial Officer Financial Means Test for Liability
21. CalRecycle 150 Corporate Guarantee
22. CalRecycle 203 Comprehensive Trip Log and Receipts
23. CalRecycle 204 Unregistered Hauler & Comprehensive Trip Log Substitution Form
24. CalRecycle 241 Application For Agricultural/Common Carrier Exemption Letter
25. CIWMB 303a Lead Agency Form 303a Household Hazardous Waste Collection Information for Fiscal Year ____ / ____ [Repealed]
26. CIWMB 303b Non-Lead Agency Form 303b Household Hazardous Waste Collection Information for Fiscal Year ____ / ____ [Repealed]
27. CIWMB 306 Application Cover Sheet
28. CIWMB 430 Newsprint Consumer Certification
29. CalRecycle 500 Waste Tire Facilities Permit Application
30. CalRecycle 501 Waste Tire Facilities Operation Plan
31. CalRecycle 502 Waste Tire Facilities Environmental Information
32. CalRecycle 503 Waste Tire Facilities Emergency Response Plan
33. CalRecycle 504 Waste Tire Facilities Closure Plan

34. CIWMB 607 Voluntary Residual Percentage reporting Form
35. CIWMB 634 Farm and Ranch Solid Waste Cleanup and Abatement Grant - Application Cover Sheet
36. CIWMB 635 Farm and Ranch Solid Waste Cleanup and Abatement Grant - Site Characterization Form
37. CIWMB 643 Clean Up Plan
38. CalRecycle 682 Notification of Use of Temporary Registration Certificate
39. CIWMB 1000 Notice of Designation of Local Agency
40. CIWMB 5000 Standardized Composting Permit

Chapter 9.1 Mandatory Commercial Recycling

SubChapter Ghost Header for Outline ADA Compliance

Article Ghost Header for Outline ADA Compliance

Section 18835. Purpose.

This Chapter implements Mandatory Commercial Recycling pursuant to §42649 of the Public Resources Code. The purpose of the statute is to reduce greenhouse gas emissions by diverting commercial solid waste to recycling efforts and to expand the opportunity for additional recycling services and recycling manufacturing facilities in California.

Authority cited: Section 40502, Public Resources Code.

Reference: Section 42649, Public *Resources Code*.

Section 18836. Definitions.

(a) The following definitions shall govern the provisions of this Chapter.

(1) "Business" means any commercial or public entity that generates four cubic yards or more of commercial solid waste per week, including, but not limited to, a firm, partnership, proprietorship, joint-stock company, corporation, or association that is organized as a for-profit or nonprofit entity, strip mall (e.g. property complex containing two or more commercial entities), industrial facility, school, school district, California State University, community college, University of California, special district or a federal, state, local, or regional agency or facility. For purposes of this Chapter, "business" also includes a multi-family residential dwelling of five units or more, regardless of the amount of commercial solid waste generated.

(2) "Commercial solid waste" means all types of solid waste, including recyclable materials that are discarded from businesses as defined in subdivision (1), but does not include waste from single family residences or multifamily units of less than 5 units and does not include industrial waste.

(3) "Franchise" means any agreement between a jurisdiction and a hauler for transporting commercial solid waste.

(4) "Hauler" means any person, commercial or public entity which collects, hauls, or transports solid waste for a fee by use of any means, including but not limited to, a dumpster truck, roll off truck, side-load, front-load, or rear-load garbage truck, or a trailer.

(5) "Mixed Waste Processing" means processing solid waste that contains both

recyclable and/or compostable materials and trash.

(6) “Self hauler” or “self hauling” means a business that transports its own waste and/or recyclables rather than contracting with a hauler for that service.

(7) “Source separating” or “source separation” means the process of removing recyclable materials from solid waste at the place of generation, prior to collection, and placing them into separate containers that are separately designated for recyclables.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Section 42649.1, Public Resources Code.*

Section 18837. Mandatory Recycling of Commercial Solid Waste by Businesses.

(a) On and after July 1, 2012, a business shall take at least one of the following actions in order to reuse, recycle, compost, or otherwise divert commercial solid waste from disposal:

(1) Source separating recyclable and/or compostable materials from the solid waste they are discarding and either self-hauling, subscribing to a hauler, and/or otherwise arranging for the pick-up of the recyclable and/or compostable materials separately from the solid waste to divert them from disposal.

(2) Subscribing to a recycling service that may include mixed waste processing that yields diversion results comparable to source separation.

(b) To comply with §18837(a), property owners of commercial or multi-family complexes may require tenants to source separate their recyclable materials. Tenants must source separate their recyclable materials if required to by property owners of commercial or multi-family complexes.

(c) Each business shall be responsible for ensuring and demonstrating its compliance with the requirements of this Section. The activities undertaken by each business pursuant to §18837(a) shall be consistent with local requirements, including, but not limited to, a local ordinance, policy, contract or agreement applicable to the collection, handling or recycling of solid waste.

(d) Except as expressly set forth in §18837(e)(3), this Chapter does not limit the authority of a jurisdiction to adopt, implement, or enforce a recycling program that is more stringent or comprehensive than the requirements of this Section. Businesses located in such a jurisdiction must comply with any local requirements that have been enacted.

(e) This Chapter does not modify, limit, or abrogate in any manner any of the following:

(1) A franchise granted or extended by a city, county, city and county, or other local government agency;

(2) A contract, license, or permit to collect solid waste granted or extended by a city, county, or other local government agency as of the effective date of this regulation;

(3) The existing right of a business to sell or donate its recyclable materials; or

(4) The existing provisions of §41783 of the Public Resources Code related to transformation that allow jurisdictions to reduce their per-capita disposal rate by no more than 10 percent. Materials sent to transformation facilities must meet the requirements of §41783(a)(2) of the Public Resources Code regarding front-end methods or programs to remove all recyclable materials from the waste stream prior to transformation to the maximum extent feasible (i.e., businesses whose waste goes to a transformation facility still need to comply with the requirements in subsection 18837(a)).

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41783, 42649.2 and 42649.5, Public Resources Code.*

Section 18838. Implementation of Commercial Recycling Program by Jurisdictions.

(a) Effective July 1, 2012, whether or not the jurisdiction has met the requirements of Section 41780, each jurisdiction shall implement a commercial recycling program appropriate for that jurisdiction which is designed to divert commercial solid waste generated by businesses and that consists of the following components:

(1) The commercial recycling program shall include education and outreach to businesses. The jurisdiction shall determine the types of educational and outreach programs to ensure that the program targets the components of the jurisdiction's commercial waste stream.

(2) The commercial recycling program shall include identification and monitoring of businesses to assess if they are complying with §18837(a). If any businesses subject to these regulations are not in compliance with these provisions, the jurisdiction shall, at a minimum, notify those businesses that they are out of compliance.

(b) The commercial recycling program adopted pursuant to Subdivision (a) may include, but is not limited to, implementing a commercial recycling policy or ordinance requiring businesses to recycle, requiring a mandatory commercial recycling program through a franchise agreement or contract, or requiring that commercial solid waste from businesses go through either a source separated or mixed waste processing system that diverts material from disposal.

(c) When adopting its commercial recycling ordinance, policy, or program, a jurisdiction may also, but is not required to, consider the following:

(1) Enforcement consistent with a jurisdiction's authority, including, but not limited to, a penalty or fine structure that incorporates warning notices, civil injunctions, financial

penalties, or criminal prosecution.

(2) Building design standards that specify space requirements for storage of recyclables or other purposes that may assist the compliance of businesses with the program.

(3) Exemptions deemed appropriate by the jurisdiction for reasons such as, but not limited to, zoning requirements, lack of sufficient space in multi-family complexes to provide additional recycling bins, lack of markets, non-generation of recyclable materials, or current implementation by a business of actions that result in recycling of a significant portion of its commercial waste.

(4) Certification requirements for self-haulers which may include, but are not limited to, requiring businesses to maintain written records demonstrating that all self-hauling activities have been completed in accordance with the standards imposed by the jurisdiction's commercial recycling program.

(d) The commercial recycling program shall apply to businesses, but may also apply to any other commercial entity identified by the jurisdiction as being a source of commercial solid waste.

(e) A jurisdiction may determine the specific material types included in its commercial recycling program, which could include, but are not limited to, paper (including cardboard), plastics, glass, metals, organics, food waste, and non-hazardous construction and demolition.

(f) If, prior to July 1, 2012, a jurisdiction has implemented a commercial recycling program that meets all requirements of this Chapter, as determined by CalRecycle pursuant to §18839, the jurisdiction will not be required to implement a new or expanded program.

(g) If, in order to satisfy the requirements of this Chapter, a jurisdiction must implement a new, or expand an existing, commercial recycling program, it shall not be required to revise its source reduction and recycling element nor comply with the requirements of Public Resources Code §41800 et seq.

(h) The jurisdiction shall include the addition or expansion of a commercial recycling program in its Annual Report required by §41821, et seq. of the Public Resources Code. Each jurisdiction shall report the progress achieved in implementing its commercial recycling program, including education, outreach, identification and monitoring, and, if applicable, enforcement efforts, and the rationale for allowing exemptions, by providing updates in its Annual Report.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41780, 42649.3 and 42649.4, Public Resources Code.*

Section 18839. CalRecycle Review.

(a) Commencing August 1, 2013, CalRecycle shall review a jurisdiction's compliance with §18838 as part of its review of the jurisdiction's source reduction and recycling element and household hazardous waste element programs, pursuant to 14 California Code of Regulations §18772 and §41825 of the Public Resources Code.

(b) During its review pursuant to this Section, CalRecycle shall determine whether each jurisdiction has made a good faith effort to implement its selected commercial recycling program. For this purpose, "good faith effort" means all reasonable and feasible efforts by a jurisdiction to implement its commercial recycling program. During its review, CalRecycle may include, but is not limited to, the following factors in its evaluation of a jurisdiction's "good faith effort":

(1) The extent to which the businesses have complied with §18837(a), including information on the amount of solid waste that is being diverted from disposal by the businesses, if available, and on the number of businesses that are subscribing to service;

(2) The recovery rate of the commercial waste from each material recovery facility that is utilized by the businesses, the role of that facility in the jurisdiction's overall waste diversion and recycling system, and all information, methods, and calculations, and any additional performance data, as requested and collected by CalRecycle from the material recovery facility operators pursuant to 14 California Code of Regulations §18809.4;

(3) The extent to which the jurisdiction is conducting education and outreach to businesses;

(4) The extent to which the jurisdiction is monitoring businesses and notifying those businesses that are out of compliance;

(5) The availability of markets for collected recyclables;

(6) Budgetary constraints; and

(7) In the case of a rural jurisdiction, the small geographic size, low population density or distance to markets.

(c) If, after a public hearing on the matter, CalRecycle finds that a jurisdiction has failed to make a good faith effort to implement a commercial recycling program and meet the requirements of §18838, CalRecycle shall issue a compliance order with a specific schedule for achieving those requirements. CalRecycle shall issue the compliance order within 30 days after making its finding of non-compliance.

(d) The compliance order shall identify the portions of the commercial recycling program which are not being implemented or attained by the jurisdiction, or identify areas of the commercial recycling program which need revision. CalRecycle shall also set a date by

which the jurisdiction shall meet the requirements of the compliance order.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 41825, 42649.3, 42649.4 and 42649.5, Public Resources Code.*

Chapter 10. Solid Waste Cleanup Program

SubChapter Ghost Header for Outline ADA Compliance

Article 1. Authority

Section. 18900. Scope.

(a) Regulations contained herein are promulgated pursuant to Public Resources Code Article 2.5 of Chapter 2 of Part 7 of Division 30. The regulations implement the Solid Waste Cleanup Program, a program for the cleanup of solid waste at disposal sites and solid waste at codisposal sites where the responsible party(ies) either cannot be identified or is unable or unwilling to pay for timely remediation and where cleanup is needed to protect public health and safety and/or the environment.

(b) In implementing this program the Board is vested, in addition to its other powers, with all the powers of an enforcement agency under Division 30 of the Public Resources Code.

(c) In administering the program authorized by Public Resources Code Section 48020 et seq. the Board may:

(1) Expend funds directly for remedial action;

(2) Provide loans to responsible parties who demonstrate the ability to repay state funds for remedial actions on solid waste disposal sites and codisposal sites;

(3) Provide matching grants to public entities for remedial actions on solid waste disposal sites and codisposal sites; and

(4) Provide grants to public entities for the abatement of illegal disposal sites.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(b), 48021(c), and 48023(b), Public Resources Code.*

Article 2. Definitions

Section. 18901. Definitions.

For the purposes of this Chapter:

(a) "Abandoned site" means a site where no responsible party can be identified or located.

(b) "Agreement" means a memorandum of understanding between the Board and a local government.

(c) "Applicant" means a person or an entity applying for a loan, matching grant, grant, or remediation managed by the California Integrated Waste Management Board.

(d) "Board" means the California Integrated Waste Management Board.

(e) "Borrower" means an applicant whose loan application has been approved and who has executed a loan agreement.

(f) "Closed site," means a disposal site that has ceased accepting waste and was closed in accordance with applicable statutes, regulations, and local ordinances in effect at the time.

(g) "Codisposal site" means a hazardous substance release site listed pursuant to Section 25356 of the Health and Safety Code where the disposal of hazardous substances, hazardous wastes, and solid waste have occurred.

(h) "Grant recipient" means an applicant whose grant application has been approved and who has executed a grant agreement pursuant to Public Resources Code Section 48021(b).

(i) "Illegal disposal site" means:

(1) A site where unauthorized disposal of solid waste has taken place to the extent that cleanup may be required to protect public health and safety and/or the environment, and

(2) The site is not permitted and not exempt from obtaining a permit and is not closed or excluded from the requirement to obtain a Solid Waste Facilities Permit.

(j) "Local government" means a local public entity that is a county, city, district, or any other political subdivision deemed eligible by the Board, but does not include the State.

(k) "Nuisance" includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community, neighborhood, household or any considerable number of persons although the extent of the annoyance or damage inflicted upon an individual may be unequal and which occurs as a result of the storage, removal, transport, processing or disposal of solid waste.

(l) "Order" means an enforcement action taken by the enforcement agency or the board in the form of issuing a notice and order, a cease and desist order, cleanup or abatement order, or a corrective action order as authorized by Section 18304.

(m) "Person" includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, public or private school, college, or university, or any other entity whatsoever.

(n) "Remedial action" means any action to abate, prevent, minimize, stabilize, mitigate, or eliminate a threat to public health and safety and/or the environment.

(o) "Repayment amount" means the amount equal to the amount expended by the Board for cleanup, the Board's cost of contract administration, and an amount equal to the interest that would have been earned on the funds expended for cleanup.

(p) "Responsible party" means:

(1) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; association; city; county; district; the state, including any department or agency thereof; or any department or agency of the United States to the extent authorized by federal law, who at the time of disposal of any solid waste owned the property;

(2) The present owner or operator of the site at which solid waste has been deposited;

(3) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; association; city; county; district; the state, including any department or agency thereof; or any department or agency of the United States to the extent authorized by federal law who by contract or agreement disposed and/or transported solid waste to the site, or who otherwise arranged for the transportation to and/or disposal of solid waste at the site;

(4) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; For the purposes of this Chapter:

(a) "Abandoned site" means a site where no responsible party can be identified or located.

(b) "Agreement" means a memorandum of understanding between the Board and a local government.

(c) "Applicant" means a person or an entity applying for a loan, matching grant, grant, or remediation managed by the California Integrated Waste Management Board.

(d) "Board" means the California Integrated Waste Management Board.

(e) "Borrower" means an applicant whose loan application has been approved and who has executed a loan agreement.

(f) "Closed site," means a disposal site that has ceased accepting waste and was closed in accordance with applicable statutes, regulations, and local ordinances in effect at the time.

(g) "Codisposal site" means a hazardous substance release site listed pursuant to Section 25356 of the Health and Safety Code where the disposal of hazardous

substances, hazardous wastes, and solid waste have occurred.

(h) "Grant recipient" means an applicant whose grant application has been approved and who has executed a grant agreement pursuant to Public Resources Code Section 48021(b).

(i) "Illegal disposal site" means:

(1) A site where unauthorized disposal of solid waste has taken place to the extent that cleanup may be required to protect public health and safety and/or the environment, and

(2) The site is not permitted and not exempt from obtaining a permit and is not closed or excluded from the requirement to obtain a Solid Waste Facilities Permit.

(j) "Local government" means a local public entity that is a county, city, district, or any other political subdivision deemed eligible by the Board, but does not include the State.

(k) "Nuisance" includes anything which is injurious to human health or is indecent or offensive to the senses and interferes with the comfortable enjoyment of life or property, and affects at the same time an entire community, neighborhood, household or any considerable number of persons although the extent of the annoyance or damage inflicted upon an individual may be unequal and which occurs as a result of the storage, removal, transport, processing or disposal of solid waste.

(l) "Order" means an enforcement action taken by the enforcement agency or the board in the form of issuing a notice and order, a cease and desist order, cleanup or abatement order, or a corrective action order as authorized by Section 18304.

(m) "Person" includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, public or private school, college, or university, or any other entity whatsoever.

(n) "Remedial action" means any action to abate, prevent, minimize, stabilize, mitigate, or eliminate a threat to public health and safety and/or the environment.

(o) "Repayment amount" means the amount equal to the amount expended by the Board for cleanup, the Board's cost of contract administration, and an amount equal to the interest that would have been earned on the funds expended for cleanup.

(p) "Responsible party" means:

(1) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; association; city; county; district; the state, including any department or agency thereof; or any department or agency of the United States to the extent authorized by federal law, who at the time of disposal of any solid waste owned the property;

(2) The present owner or operator of the site at which solid waste has been deposited;

(3) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; association; city; county; district; the state, including any department or agency thereof; or any department or agency of the United States to the extent authorized by federal law who by contract or agreement disposed and/or transported solid waste to the site, or who otherwise arranged for the transportation to and/or disposal of solid waste at the site;

(4) Any individual person; trust; firm; joint stock company; Native American tribe; corporation, including a government corporation; partnership; joint venture; association; city; county; district; the state, including any department or agency thereof; or any department or agency of the United States to the extent authorized by federal law who was the owner or custodian of the solid waste that was deposited on the site.

(5) The term "responsible party," as defined above, may only be construed within the context of this Article and Public Resources Code Sections 48020 et seq. and shall not be interpreted under any other local, state, or federal statute.

(q) "Responsible party is unable to pay" means:

(1) The responsible party does not currently, have the financial ability, as verified by independent audit, financial statements, or other documentation acceptable to Board, to pay the costs of remediation necessary to protect the public health and safety and/or the environment; or

(2) The responsible party does not have the legal power or authority to perform required site cleanup.

(r) "Responsible party is unwilling to pay" means: the responsible party has financial ability to pay for the costs of remediation necessary to protect public health and safety and/or the environment, has been issued an enforcement order to perform remediation, and has refused to comply with the order.

(s) "Responsible party cannot be identified," means the responsible party cannot be identified or found after a search of public records, investigation, and consultation with other enforcement agencies.

(t) "Threat" or "threaten" means a condition creating a probability of substantial harm, when the probability and potential extent of harm make it reasonably necessary to take immediate action to prevent, reduce, or mitigate damages to persons, property, natural resources, or the public health or safety.

(u) "Trust Fund" means the Solid Waste Disposal Site Cleanup Trust Fund created pursuant to Public Resources Code Section 48027 of Article 2.5 of Chapter 2 of Part 7 of Division 30.

(v) "Surplus Money Investment Fund" means the fund in which excess state moneys are

invested until the money is needed for its intended purpose. The fund is administered by the state treasurer's office.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Article 3. Site Selection and Ranking Criteria

Section. 18902. Site Eligibility.

Candidate sites may be eligible for funding if:

(a) The site is a solid waste disposal site, codisposal site, or illegal disposal site as defined in Section 18901;

(b) The responsible parties, either cannot be identified, located, or is unable or unwilling to pay for timely and proper remediation; and

(c) Remedial action is required to protect public health and safety and/or the environment.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020(b) and 48021(c)., Public Resources Code.*

Section 18903. Site Prioritization.

(a) The Board shall prioritize sites for eligibility based on the following factors:

(1) The actual or potential degree of risk to public health and safety and/or the environment posed by conditions at the site as determined by a comparison with state minimum standards (27 CCR, Chapter 3, Subchapter 4, commencing with Section 20510 and Subchapter 5, commencing with Section 21099.

(2) The ability of the site owner and or responsible parties to promptly and properly remediate the site without monetary assistance;

(3) The ability of the Board to adequately remediate the site with available funds;

(4) The amount of contributions of money and/or in-kind services from local governments and responsible parties;

(5) The availability of other appropriate federal or state enforcement and/or cleanup programs to remediate the site.

(6) The ability to obtain site access for the proposed remediation

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020(b) and 48021(a)., Public Resources Code.*

Section. 18904. Eligible and Ineligible Remedial Actions.

(a) Remedial actions taken pursuant to the Solid Waste Cleanup Program shall, to the extent practicable, contribute to the efficient performance of any anticipated long-term remedial action with respect to the specific threat to public health and safety and/or the environment addressed under the program.

(b) Remedial actions that are appropriate for the use of funds include, but are not limited to: waste removal and disposal; security measures such as fences and warning signs; drainage controls; slope and foundation stabilization; excavation, consolidation, and capping of waste areas; field and laboratory testing; and installation of landfill gas and leachate control systems. This list is not exhaustive and shall not prevent the Board from taking other necessary and appropriate actions and does not create a duty on the Board to take action at any particular time.

(c) Ineligible actions include, but are not limited to: closure as defined in Section 20164 of Title 27, Division 2 of the California Code of Regulations; ground water remediation; operation and maintenance of leachate, surface water, or vadose zone monitoring systems; closure and postclosure maintenance services; improvements to property for postclosure land uses; preparation of closure or postclosure maintenance plans; removal, abatement, and cleanup or otherwise handling of only hazardous substances as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C. Section 9601(14)] not codisposed with nonhazardous solid waste.

(d) The remediation of landfill or disposal site fires pursuant to this chapter will only be eligible in situations where the fire is remediated as one part of a project approved by the Board under the applicable criteria for any other project approved for remediation under this program.

(e) Eligible activities regarding emergency actions at disposal sites pursuant to this chapter include technical assistance to local emergency response agencies. The Board may consider approval of funding of final site remediation pursuant to this chapter after the emergency response if all other applicable criteria are met.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Article 4. Loans to Local Governments

Section. 18905. Purpose.

(a) The Board may make loans directly from the trust fund to local government to assist in site remedial actions. The loans shall be used to assist the Board in complying with Public Resources Code Section 48020 et seq.

(b) The regulations contained in this Article set forth the requirements to apply for and receive loan funds from the trust fund.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*
Reference: *Sections 48021(b), Public Resources Code.*

Section. 18906. Loan Eligibility.

(a) Loans are available only to local governments that demonstrate:

(1) The site remediation is needed to protect public health and safety and/or the environment; and

(2) The ability to repay the loan and to pay for costs of remediation that exceeds the loan amount.

(b) Loan funds may be used only for those eligible costs pursuant to Section 18904.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*
Reference: *Sections 48021(b)., Public Resources Code.*

Section. 18907. Loan Requirements.

Loans made pursuant to this Article shall be subject to the following requirements:

(a) The terms of any approved loan shall be specified in a loan agreement between the borrower and the Board. Notwithstanding any term of the agreement, any recipient of a loan that the Board approves shall repay the principal amount plus interest on the basis of the rate of return for money in the Surplus Money Investment Fund at the time of the loan.

(b) The Board shall not finance more than one million dollars (\$1,000,000) per site.

(c) The term of any loan made pursuant to this Article shall be not more than 20 years.

(d) The money from any loan repayments and fees, including, but not limited to, principal and interest payments, fees and points, administrative fees, recovery of collection costs, income earned on any asset recovered pursuant to a loan default, and funds collected through foreclosure actions shall be deposited in the trust fund.

(e) The Board or the Department of Finance may audit the recipient's records regarding moneys received pursuant to this Article.

Authority cited: *Sections 40502 and 48025., Public Resources Code.*
Reference: *Sections 48027(c)(3)., Public Resources Code.*

Section. 18908. Loan Application Process.

(a) Applications from local governments for loan funds shall be accepted on a continuous basis.

(b) Jurisdictions with eligible sites shall submit an application package which shall include but is not limited to the following information:

(1) A copy of the grant deed with legal description. The applicant must be the owner or co-owner of the site, or the Sponsor (e.g. Redevelopment Agency) of eligible cleanup of privately owned or leased lands within their jurisdiction.

(2) Substantiation of threat to public health and safety or the environment by attaching applicable regulatory agency investigation documents or enforcement orders, solid waste assessment tests (SWAT) reports, or certified environmental assessment reports.

(3) A detailed Scope of Work and Cost Estimate prepared by a registered civil engineer.

(4) A document showing compliance with the California Environment Quality Act (e.g. Notice of Exemption, Initial Study/Negative Declaration or Environment Impact Report).

(5) Demonstrate the need for the requested loan funds by attaching the applicant's annual financial operating statements for the last three years and interim (within 90 days) independent audits, and other evidence of financial condition. Each statement must be certified by the original signature of the person completing the application.

(6) Identify and provide evidence of sources of funds to repay the loan and pay for site cleanup costs that exceed the loan amount, certified by the original signature of the person completing the application. In lieu of collateral, the applicant must identify a guaranteed revenue source which will be dedicated to repay the loan.

(7) A copy of an adopted resolution from the governing board or council authorizing submittal of the application, certifying availability of local funds needed to complete the cleanup, and identifying the title and name of the individual authorized to execute any agreements, contract, and requests for payment to carry out the project.

(8) Applications from joint power authorities consisting of several cities and/or counties must include a signed copy of a written agreement between the governing bodies authorizing the loan applicant to act on their behalf.

(9) Name, address, telephone number, and fax number of the applicant

(c) All materials submitted shall become property of the Board and will be retained for a minimum of three years.

(d) Documents required in subsection (b) of this Section shall be submitted to the principal place of business of the California Integrated Waste Management Board.

Authority cited: *Section 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18909. Preliminary Review of Loan Applications.

Upon receipt, Board staff shall review each local government application to determine whether the application is complete. Within thirty (30) days of receiving the application Board staff shall send a letter to the local government with one of the following

responses:

- (a) The local government application is incomplete with specification of the steps, if any, that the applicant may take to correct the identified deficiencies. Applications that fail to supply the required information shall be rejected from consideration for a loan; or
- (b) The applicant is ineligible for a loan pursuant to Section 18906 of this Article; or
- (c) The applicant is eligible for a loan pursuant to Section 18906 of this Article, the application is complete, and the application shall be evaluated by Board staff.

Authority cited: *Sections 40502 and 48025., Public Resources Code.*

Reference: *Sections 48020-48028., Public Resources Code.*

Section. 18910. Review of Complete Loan Applications and Board Approval.

Upon determination that an application is complete, Board staff shall review each application and prepare a summary of findings. Applications, which meet the following criteria shall be considered and a decision shall be made by the Board within ninety (90) days of the determination that the application is complete:

- (a) The source of repayment is sufficient for the requested loan amount; and
- (b) The applicant has adequately demonstrated the appropriateness of the loan for use in the project as specified pursuant to Section 18906(c) of this Article.

Authority cited: *Sections 40502 and 48025., Public Resources Code.*

Reference: *Sections 48020-48028., Public Resources Code.*

Section. 18911. Loan Agreement.

- (a) If the Board approves the loan, the applicant and the Board shall enter into a written loan agreement that identifies and ensures compliance with the terms and conditions specified in Section 18907 of this Article and any other special conditions or terms that the Board deems necessary on a case-by-case basis.
- (b) All funds shall be disbursed and repaid pursuant to the terms of the loan agreement.
- (c) The borrower shall obtain prior written approval from the Board, or its designated representative, for any changes in the loan agreement. All requests shall include a description of the proposed change(s) and the reason(s) for the change(s).

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18912. Financial Condition Notification.

- (a) During the application process and any time thereafter, it shall be the responsibility of the applicant or borrower to immediately notify the Board of any change in financial

condition that would make them:

(1) Financially able to perform remedial action without Trust Funds; or

(2) Unable to repay the loan; or

(3) Unable to pay for remedial action costs that exceed the loan amount.

(b) Any such changes in conditions or failure to notify the Board of any such changes in conditions may nullify eligibility for use of Trust Funds.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Article 5. Grants to Public Entities to Abate Illegal Disposal Sites

Section. 18913. Purpose.

(a) The Board may make grants directly from the trust fund to public entities to assist in site remediation actions. Grants shall be used to assist the Board in complying with Public Resources Code Section 48020 et seq.

(b) The regulations contained in this Article set forth the requirements to apply for and receive grant funds from the trust fund.

Authority cited: *Sections 40502 and 48025., Public Resources Code.*

Reference: *Sections 48021(c), Public Resources Code.*

Section. 18914. Grant Eligibility.

(a) Grants are available to public entities that demonstrate the following:

(1) The illegal disposal site remedial action is necessary to protect public health and safety and/or the environment; and

(2) The public entity is authorized by resolution of their local governments to file an application with the Board for grant funds and enter into and execute a grant agreement.

(b) Grants to public entities may only be used for remedial actions at illegal disposal sites within their jurisdiction.

(c) Grant funds may be used only for those eligible costs pursuant to Section 18904.

Authority cited: *Sections 40502 and 48025., Public Resources Code.*

Reference: *Sections 48021(c), Public Resources Code.*

Section. 18915. Grant Requirements.

Grants made pursuant to this Article shall be subject to the following requirements:

- (a) The terms of any approved grant shall be specified in a grant agreement between the grant recipient and the Board.
- (b) The Board shall not finance more than five hundred thousand dollars (\$500,000) per site.
- (c) The Board or the Department of Finance may audit the recipient's records regarding moneys received pursuant to this Article.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48027(c)(3), Public Resources Code.*

Section. 18916. Grant Application Process.

- (a) Applications for grant funds shall be accepted on a continuous basis.
- (b) Public entities with eligible sites shall submit an application package which shall include but is not limited to the following information:
 - (1) Name of the site owner and a copy of the owner's grant deed with legal description.
 - (2) Substantiation of actual or potential threat to public health and safety or the environment by attaching applicable regulatory agency investigation documents or enforcement orders, solid waste assessment tests (SWAT) reports, or certified environmental assessment reports.
 - (3) Preliminary Work Plan and Cost Estimate prepared by a registered civil engineer. If local government resources to be reimbursed with grant funds are proposed for site cleanup, costs shall be determined in accordance with procedures in State Department of Transportation Standard Specifications Section 9-1.03, Force Account Payment, except that overhead and profit markups to direct cost of labor, materials, equipment or subcontractors will not be allowed.
 - (4) Proof of Compliance with the California Environmental Quality Act (e.g. Notice of Exemption, Initial Study/Negative Declaration, or Environmental Impact Report).
 - (5) Evidence of owner's inability to pay for cost of site cleanup (e.g. owner cannot be identified or found, owner is unable to pay for site cleanup). Attach a copy of report of records search, financial statements or audits of owner, and other documents to substantiate need.
 - (6) A copy of the adopted resolution from the governing board or council authorizing the public entity to file an application and enter into and execute a grant agreement, and naming the title of the individual authorized to execute any agreements, contracts, and requests for payment.

(7) Name, address, telephone number, fax number of the applicant.

All materials submitted shall become the property of the Board and will be retained for a minimum of three years.

(c) Documents required in subsection (b) shall be submitted to the principal place of business of the California Integrated Waste Management.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18917. Preliminary Review of Grant Applications.

Upon receipt, Board staff shall review each application to determine whether the application is complete. Within thirty (30) days of receiving the application Board staff shall send a letter to the applicant with one of the following responses:

(a) The application is incomplete with specification of the deadline and steps, if any, which the applicant may take to correct the identified deficiencies. Following receipt of such notice, applicants that fail to supply the required information or meet any specified deadline shall be rejected from consideration for a grant.

(b) The applicant is ineligible for a grant based on failure to meet criteria under Section 18914 of this Article; or

(c) The applicant is eligible for a grant pursuant to Section 18914 of this Article, that the application is complete, and that the application shall be evaluated by Board staff.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18918. Review of Complete Grant Applications and Board Approval.

Upon determination that an application is complete, Board staff shall review each application and prepare a summary of findings. Applications, which meet the following criteria, shall be considered and a decision shall be made by the Board within ninety (90) days of the determination that the application is complete:

(a) The Local Enforcement Agency shall provide ongoing inspection and enforcement action to prevent recurring use of the illegal disposal site;

(b) The applicant has adequately demonstrated the appropriateness of the grant for use in the project as specified pursuant to Section 18904 of this Chapter; and

(c) If the applicant is other than the Local Enforcement Agency, a copy of the complete application shall be sent to the Local Enforcement Agency's office.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(c), Public Resources Code.*

Section. 18919. Grant Agreement.

(a) If the Board approves the grant, the applicant and the Board shall enter into a written grant agreement that identifies and ensures compliance with the terms and conditions specified in Section 18915 and any other special conditions or terms that the Board may deem necessary.

(b) All funds shall be disbursed pursuant to the terms of the grant agreement.

(c) The grant recipient must obtain prior written approval from the Board, or its designated representative, for any changes in the grant agreement. All requests must include a description of the proposed change(s) and the reason(s) for the change(s).

(d) The Board may terminate any grant in whole, or in part, at any time prior to the date of completion whenever it is determined by the Board that the recipient has failed to comply with the terms of the grant agreement. The Board shall notify the recipient in writing of the reasons for the termination of the grant and the effective date of the termination within five working days of the determination to terminate.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Article 6. Matching Grants to Public Entities

Section. 18920. Purpose.

(a) The Board may make matching grants directly from the trust fund to public entities to assist in site remedial actions. The grants shall be used to assist the Board in complying with Public Resources Code Section 48020 et seq.

(b) The regulations contained in this Article set forth the requirements to apply for and receive matching grant funds from the trust fund.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(b), Public Resources Code.*

Section 18921. Matching Grant Eligibility.

(a) Matching grants are available only to public entities that demonstrate the following:

(1) The site remedial action is needed to protect public health and safety and/or the environment; and

(2) The ability to pay the costs of remedial action that exceed the grant amount.

(b) Matching grant funds may be used only for those eligible costs pursuant to Section 18904.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(b), Public Resources Code.*

Section. 18922. Matching Grant Requirements.

Matching grants made pursuant to this Article shall be subject to the following requirements:

(a) The terms of any approved grant shall be specified in a matching grant agreement between the matching grant recipient and the Board.

(b) The Board shall finance up to and not more than 50 percent of the cost of any project up to a maximum of seven hundred and fifty thousand dollars (\$750,000) per site.

(c) The Board or the Department of Finance may audit the recipient's records regarding moneys received pursuant to this Article.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48027(c)(3), Public Resources Code.*

Section. 18923. Matching Grant Application Process.

(a) Applications for matching grant funds shall be accepted on a continuous basis.

(b) Jurisdictions with eligible sites shall submit an application package which shall include but is not limited to the following information:

(1) A copy of the grant deed with legal description.

(2) Substantiation of threat to public health and safety or the environment. Attach applicable regulatory investigations or enforcement orders, solid waste assessment test (SWAT) reports, or certified environmental assessment reports.

(3) A detailed Scope of Work and Cost Estimate prepared by a registered civil engineer. Cost of eligible and ineligible work must be itemized separately. If local government resources to be reimbursed under this grant agreement are proposed for site cleanup, costs shall be determined in accordance with procedures in State Department of Transportation Standard Specifications Section 9-1.03, force Account Payment, except that overhead and profit markups to direct cost of labor, materials, equipment, or subcontractors will not be allowed.

(4) Proof of compliance with the California Environmental Quality Act (e.g. Notice of Exemption, Initial Study/Negative Declaration, or Environmental Impact Report).

(5) Demonstration of need for requested grant funds. Attach applicant's annual financial operating statements for last three years, independent audits, and other evidence of financial conditions.

(6) Identification of sources of funds to pay for local government match and project

costs not eligible for matching grant included in the project.

(7) A copy of the approved resolution from the governing board or council authorizing submittal of the application, certifying availability of matching funds and funds for costs not eligible, and the naming title of the individual authorized to execute any agreements, contract, and requests for payment. This authorized individual will be the only person whose signature the Board will recognize. Applications from joint power authorities consisting of several cities and/or counties must include a signed copy of a written agreement between the governing bodies authorizing the grant applicant to act on their behalf.

(8) Name, address, telephone number, and fax number of the applicant.

All materials submitted will become property of the Board and will be retained for a minimum of three years.

(c) Documents required in subsection (b) shall be submitted to the principal place of business of the California Integrated Waste Management Board.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18924. Preliminary Review of Matching Grant Applications.

Upon receipt, Board staff shall review each application to determine whether the application is complete. Within thirty (30) days of receiving the application Board staff shall send a letter to the applicant with one of the following responses:

(a) The application is incomplete and specifying the deadline and steps, if any, which the applicant may take to correct the identified deficiencies. Following receipt of this notice, applicants that fail to supply the required information or meet any specified deadline shall be rejected from consideration for a grant; or

(b) The applicant is ineligible for a matching grant pursuant to Section 18921 of this Article; or

(c) The applicant is eligible for a matching grant pursuant to Section 18921 of this Article, that the application is complete, and that the application shall be evaluated by Board staff.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028., Public Resources Code.*

Section. 18925. Review of Complete Matching Grant Applications and Board Approval.

Upon determination that an application is complete, Board staff shall review each application and prepare a summary of findings. Applications, which meet the following criteria, shall be considered and a decision shall be made by the Board within ninety

(90) days of the determination that the application is complete:

(a) The applicant's source of payment is sufficient to supply the amount of funds needed that exceed the matching grant amount; and

(b) The applicant has adequately demonstrated the appropriateness of the matching grant for use in the project as specified pursuant to Section 18902(c) of this Article.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(c), Public Resources Code.*

Section. 18926. Matching Grant Agreement.

(a) If the Board approves the matching grant, the applicant and the Board shall enter into a written matching grant agreement that identifies and ensures compliance with the terms and conditions specified in Section 18923 and any other special conditions or terms that the Board may deem necessary on a case-by-case basis.

(b) All funds shall be disbursed pursuant to the terms of the grant agreement.

(c) The matching grant recipient must obtain prior written approval from the Board, or its designated representative, for any changes in the matching grant agreement. All requests must include a description of the proposed change(s) and the reason(s) for the change(s).

(d) The Board may terminate any matching grant in whole, or in part, at any time prior to the date of completion, whenever it is determined by the Board as a whole, that the recipient has failed to comply with the terms of the matching grant agreement. The Board shall notify the recipient in writing of the reasons for the termination of the matching grant and the effective date of the termination within five working days of the determination.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18927. Financial Condition Notification.

(a) During the application process and any time thereafter, it shall be the responsibility of the applicant or matching grant recipient to immediately notify the Board of any change in financial condition that would make them either:

(1) Financially able to perform remedial action without Trust Funds; or

(2) Unable to pay for remedial action costs that exceeds the matching grant amount.

(b) Any such changes in conditions and/or failure to notify the Board of any such changes in conditions may nullify eligibility for use of Trust Funds.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Article 7. Board Managed Remediations

Section. 18928. Purpose.

(a) The Board may decide to expend available moneys to perform any cleanup, abatement, or remedial action work required under the provisions set forth in Section 18904 which is required by the magnitude of the endeavor or the need for prompt action to prevent substantial pollution, nuisance, or injury to public health or safety and/or the environment. The action may be taken in default of, or in addition to remedial work by the responsible parties or other persons and regardless of whether injunctive relief is being sought.

(b) The Board may perform the work itself or in cooperation with any other governmental agency. Notwithstanding any other provisions of the law, the Board may enter into oral contracts for that work, and the contracts, whether written or oral, may include provisions for equipment rental and in addition the furnishing of labor and materials necessary to accomplish the work. The contracts are exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(b), Public Resources Code.*

Section. 18929. Cost Recovery.

(a) The Board shall pursue cost recovery for each site remediated with funds in accordance with this chapter unless under limited circumstances where a determination is made by the Board that cost recovery will not be pursued based on factors including but not limited to: publicly owned sites maintained in public benefit and use; property owner did not cause the disposal of waste; property owner did not and will not gain a benefit due to condition of property; value of property significantly less than cost of cleanup; hardship to property owner; and in cases where a responsible party cannot be identified.

(b) If a remedial action is taken in the case of threatened pollution or nuisance by the Board and/or any governmental agency, any costs incurred by the Board and/or governmental agency are recoverable from the responsible parties or parties who unlawfully caused such a condition or conditions. Any and all responsible parties are joint and severably liable for any such costs. The amount of those costs shall be recoverable in a civil action by, and paid to, the governmental agency and the Board to the extent of the latter's contribution to the cleanup costs from available funds.

(c) Reasonable costs shall include the amount expended, the Board's costs of contract administration, and an amount equal to the interest that would have been earned on the expended funds. The interest rate shall be based on the rate of return for money in the Surplus Money Investment Fund.

(d) Any and all responsible parties are joint and severally liable.

(e) The entry of judgment against any party to the action does not bar any future action by the Board against any other person who is later discovered to be potentially liable for costs paid from the trust fund.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48023, Public Resources Code.*

Section. 18930. Responsible Parties Identification.

If, despite reasonable efforts by the Board to locate the person(s) responsible for the condition of pollution or nuisance, the person is not identified at the time of cleanup, abatement, or remedial action work must be performed, the Board shall not be required to issue an order under this Chapter.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Section. 18931. Eligibility.

Funds may be used only for those costs eligible pursuant to Section 18904.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48021(b), Public Resources Code.*

Section. 18932. Board Approval.

Upon determination that a site is eligible pursuant to Section 18904 of this Chapter, the site shall be considered by the appropriate Committee, and if necessary, for final recommendation to the Board for approval within ninety (90) days.

Authority cited: *Sections 40502 and 48025, Public Resources Code.*

Reference: *Sections 48020-48028, Public Resources Code.*

Chapter 11. Product Stewardship

SubChapter Ghost Header for Outline ADA Compliance

Article 1.0. Product Stewardship for Carpets

Section. 18940. Purpose.

The purpose of this Article is to clarify existing statute and establish administrative procedures to efficiently and effectively implement the department's responsibilities under the law for product stewardship for carpets and to provide a uniform competitive business environment to all carpet manufacturers, retailers, and wholesalers pursuant to Section 42970 of the Public Resources Code.

Authority cited: *Sections 40502 and 42970, Public Resources Code.*

Reference: *Section 42970, Public Resources Code.*

Section. 18941. Definitions.

(a) The following definitions shall only apply to this Article and except as otherwise noted, the definitions of this Article supplement and are governed by the definitions set forth in Chapter 20 (commencing with Section 42970), Part 3, Division 30 of the Public Resources Code:

(1) "Must" or "shall" means a provision is mandatory.

(2) "May" means a provision is permissive.

(b) "Administrative fee" means payments from the carpet assessment to the department that cover the costs of its administrative, oversight, and enforcement services necessary for manufacturers or stewardship organizations to effectively implement carpet stewardship plans. The administrative fee will be paid by the individual manufacturer or stewardship organizations submitting a stewardship plan.

(c) "Assessment" means the amount added to the purchase price of carpet that is subsequently remitted to a stewardship organization or manufacturer, and shall be spent on implementing the carpet stewardship plan.

(d) "Aggregate Assessment" means the sum of all assessments collected in the state of California in a calendar year.

(e) "Carpet As Alternative Fuel" (CAAF): Fuel that has been produced from source-separated, and sorted post-consumer carpet and processed, including

(1) extraction of components for recycling if at all possible; and

(2) size reduction, shredding, and/or blending with coal fines, etc. CAAF is not a type recycling, but it is a type of diversion for the purpose of this Article.

(f) "Diversion" or "divert" means activities which reduce or eliminate the amount of solid waste disposed at landfills in a manner consistent with the state's hierarchy for waste management pursuant to Section 40051. Nothing in this definition is intended to change the definition of diversion that applies to jurisdictions pursuant to Section 40192(b) of the Public Resources Code or the applicability of that definition through Part 2 of Division 30 of the Public Resources Code (commencing with Section 40900).

(g) "Indoor/outdoor carpet" means a type of carpet, regardless of construction, made of synthetic materials that have been especially designed or treated to withstand moisture, extremes of temperature, ultra-violet rays, and other types of exposures. Indoor/outdoor carpet may be broadloom or carpet tiles that are applied in building interiors as well as exteriors. Indoor/outdoor carpet is defined as carpet for the purpose of this Article.

(h) "Reporting period" means the period that commences in January and ends in December, and represents twelve consecutive months in the preceding calendar year.

(i) "Rug" means a loose laid (not installed or attached at wall base) soft floor covering manufactured from natural or synthetic fiber, including carpet cut into room or area dimensions, that is not intended to cover the entire floor.

(j) "Significant or Material Change" means any change in a required element of the carpet stewardship plan or annual report.

(k) "Synthetic turf" means a primarily outdoor synthetic product manufactured to look like natural grass for use as a sports playing surface and/or alternative to lawns. Synthetic turf is not carpet.

(l) "Transformation" is defined in Section 40201 of the Public Resources Code.

Authority cited: *Sections 40502 and 42971, Public Resources Code.*

Reference: *Sections 40124, 40127, 40180, 40191, 40192, 40201, 41780, 42970 and 42971, Public Resources Code.*

Section. 18942. Submittals.

(a) A corporate officer, acting on behalf of a manufacturer or stewardship organization, shall register with the department. The registration process shall include, but not be limited to, the following information:

(1) Contact information of the corporate officer responsible for submitting stewardship plan and annual report documents to the department and for overseeing carpet stewardship program activities, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name of Company or Stewardship Organization

(D) Mailing address and physical address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(H) Location and custodian of records

(2) List each manufacturer participating in the stewardship organization, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name of Company or Stewardship Organization

(D) Mailing address and physical address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(H) Location and custodian of records

(3) List of brands covered under the stewardship plan.

(b) The stewardship plan must be submitted electronically according to instructions provided by the department. A hard copy signed by a corporate officer of a manufacturer or stewardship organization, under the penalty of perjury, must also be submitted to the department.

(1) The information submitted in a stewardship plan shall address the criteria for approval in Section 18943 and be organized according to this standard outline:

(A) Contact Information

(B) Scope

(C) Performance Goals and Activities

(D) Solid Waste Management Hierarchy

(E) Collection System

(F) Market Development

(G) Financing Mechanism

(H) Education and Outreach

(I) Program Performance Measurement

(J) Stakeholder Consultation

(K) Audits

(2) The department may approve, disapprove, or conditionally approve a stewardship plan. A manufacturer or stewardship organization has 60 days to resubmit a plan or provide any supplemental information requested by the department when a plan is disapproved or conditionally-approved.

(3) Plans shall be updated within 30 days of a significant or material change.

(4) The approved stewardship plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or stewardship organization is not a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection. The department may release financial, production, or sales data in summary form only that cannot be attributable to a specific manufacturer.

(c) The annual report shall be submitted by a corporate officer acting on behalf of a manufacturer or stewardship organization that is operating a carpet stewardship program under a department-approved stewardship plan.

(1) The annual report must be submitted electronically to the department, according to instructions provided by the department. A hard copy, signed by a corporate officer of a manufacturer or stewardship organization under the penalty of perjury, must also be submitted.

(2) The information submitted in an annual report shall address the criteria for a finding of compliance per 42976 as outlined in Section 18944 Annual Report Compliance Criteria and be organized according to this standard outline:

(A) Contact Information

(B) Executive Summary

(C) Scope

- (D) Program Outline
- (E) Description of Goals and Activities
- (F) Market Development
- (G) Financing Mechanism
- (H) Education and Outreach
- (I) Audits

Authority cited: *Section 40502, Public Resources Code.*
 Reference: *Sections 42972, 42975 and 42976, Public Resources Code.*

Section. 18943. Criteria for Plan Approval.

(a) Product stewardship plans must contain the following:

(1) Contact information. Identify the manufacturer or designated stewardship organization responsible for the plan submittal.

(2) Scope. The program described in the stewardship plan is:

(A) Designed to accept and manage all applicable post-consumer carpet, regardless of polymer type or primary materials of construction.

(B) The stewardship plan submitted follows the standard outline (see Section 18942 Stewardship Submittal Instructions).

(3) Performance Goals and Activities. The program described in the stewardship plan shall contain a set of performance goals and criteria that include, but are not limited, to the following items:

(A) Performance goals, which shall be numeric as noted, and include a description of how program goals will be achieved for the following categories:

Increase the recyclability of carpets.

Incentivize the market growth of secondary products made from post-consumer carpets.

Increase the reuse of post-consumer carpets (numeric goal).

Increase the recycling of post-consumer carpets (numeric goal).

Increase the diversion of post-consumer carpet from landfills.

(B) The goals established in the plan are at a minimum equal to the goals established in the CARE MOU, while recognizing the current recycling infrastructure and capacity in

California is higher than the nation, and estimating changes in market conditions, and anticipating recycling infrastructure and capacity in California.

(C) Each goal has a baseline from which it is measured using the units used in the CARE MOU and reporting requirements.

(D) The plan describes a methodology for estimating the amount of carpet available for collection in California.

(E) Report on source reduction.

(4) Solid Waste Management Hierarchy. Describe:

(A) Proposed measures that will enable the management of post-consumer carpet in a manner consistent with the state's solid waste management hierarchy pursuant to PRC Section 40051 and demonstrate that over time source reduction, reuse, and recycling will increase, over environmentally safe transformation and land disposal.

(B) Management of carpet through source reduction, reuse and recycling must be greater than, and grow at a higher rate than the management of carpet in any form, including Carpet As Alternative Fuel (CAAF), used as a fuel.

(C) This Article does not modify or abrogate in any manner existing provisions of Section 41783 of the Public Resources Code related to transformation that allow jurisdictions to reduce their per-capita disposal rate by no more than 10 percent.

(5) Collection Systems. Describe the system that will be used to collect and properly manage post-consumer carpet. This description must include the following:

(A) Type of collection sites used.

(B) Types of reuse and recycling activities, processing and/or disposal by product type.

(C) Description of how service providers handling old carpet will be able to readily, accurately, and economically identify the type of carpet polymer to facilitate reuse and recycling, e.g., labeling on the back of carpet, affordable laser detection devices, or other technology.

(D) General description of best management practices to be followed by the service providers, including any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of post-consumer carpet.

(E) Description of how each consumer that pays a carpet stewardship assessment, including but not limited to those in rural areas, will be provided reasonably convenient opportunity(ies) in each county to manage their post-consumer carpet.

(6) Market Development. Describe incentives or methods to increase recycling of carpet

into secondary products.

(7) Financing Mechanism. Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the carpet stewardship program, including the administrative, operational, and capital costs of the plan. The funding mechanism includes the following:

(A) A carpet stewardship assessment per square yard of carpet sold in the state, or by some other unit, as approved by the department.

(B) A budget for the program that includes revenue estimates from the assessment, full program costs, and administrative costs; including those pursuant to Section 18948 regarding service payments to the department.

(C) A requirement that any surplus funds will be put back into the program to reduce the costs of the program, including the assessment amount.

(D) An assessment amount that is sufficient to meet, but not exceed, the anticipated cost of carrying out the plan.

(E) An assessment amount that does not create an unfair advantage in the marketplace.

(F) An allocation of funds that support the solid waste management hierarchy and program goals identified in the stewardship plan.

a. Funds designated for CAAF, must be supported with documentation that provides evidence of a net environmental benefit over landfilling and that without an incentive more materials would be landfilled.

(G) Stewardship organization and manufacturers shall allocate revenues and expenditures applicable to this program in accordance with Generally Accepted Accounting Principles.

(H) The stewardship plan shall describe how the collection and expenditure of carpet assessment funds shall be kept separate from other activities of the stewardship organization.

(8) Education and Outreach. Include education and outreach efforts to consumers, commercial building owners, carpet installers, and retailers to promote their participation in achieving the purposes of the carpet stewardship plan. The description shall include how the outreach and education methods will be used and distributed, and how effectiveness of these activities will be measured. Educational information may include, but is not limited to, signage, written materials, advertising or other promotional materials pursuant to Section 42972 (a) (5).

(9) Program Performance Measurement. Describe how attainment of the goals will be measured per Section 18943(a)(3)(c). Program data shall be collected for purposes of

annual report submittal (see Section 18944 Annual Report Compliance Criteria). Information to be provided includes, but is not limited to:

(A) Specific information on the measurement methodology, assumptions, conversion factors, if used, and data sources.

(10) Stakeholder Consultations. A manufacturer or stewardship organization that submits a plan shall include a process of consultation with affected stakeholders and consider the existing infrastructure in the development of the plan. Stakeholders may include, but are not limited to, other manufacturers and stewardship organizations, service providers, state and local governments, non-governmental organizations, haulers, demolition or other contractors, recyclers, retailers and wholesalers, installers, and consumers.

(11) Audits. Include a process by which the financial activities of the stewardship organization and individual manufacturer that are related to implementation of the stewardship plan will be subject to an independent audit, results of which will be submitted in the manufacturer or stewardship organization's annual report and reviewed by the department.

(12) Environmental information. Plans shall be accompanied with information to assist in completing an initial study under the California Environmental Quality Act.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42972, and 42973, Public Resources Code.*

Section. 18944. Annual Report Compliance Criteria.

(a) The annual report must contain the following:

(1) Contact information. Identify the manufacturer or stewardship organization responsible for the annual report submittal.

(2) Executive Summary. Provide an evaluation of the effectiveness of the carpet stewardship plan, and anticipated steps, if needed, to improve performance.

(3) Scope. The program described in the stewardship plan accepts and manages all applicable post-consumer carpet.

(A) Indicate any changes in the program scope from the approved stewardship plan.

(B) Indicate the scope is unchanged, if no changes have occurred during the reporting period.

(4) Program Outline. Describe the carpet stewardship program, including information on the following topics:

(A) Types of collections sites and basic information about recycling facilities in California, e.g., how carpet is collected, number and location of processors, throughput

and capacity of recycling facilities.

(B) Include facility name(s) and address(es) for each method of disposition.

(5) Description of goals and activities based on the stewardship plan. State goals from the approved plan, the baseline from which goals were measured, and report on achievement during the reporting period.

(A) The annual report shall include, but is not limited to, quantitative information data and discussion, specific to sales in California, on the following:

Amount of carpet sold by square yards and pounds, in the state during the reporting period that is covered under the approved stewardship plan. A stewardship organization with more than one manufacturer may use average weight.

Amount (pounds) of post-consumer carpet that is available for collection.

Amount (pounds) of carpet source reduced, if measureable.

Amount (pounds) of post-consumer carpet collected, by weight, during the reporting period.

Disposition, that is, amounts reused, recycled, incinerated for energy recovery or disposed of in a landfill; of collected post-consumer carpet, by pounds, during the reporting period.

Describe efforts to increase recyclability of carpets.

Describe efforts to increase recycling of post-consumer carpet.

Describe efforts to increase diversion of post-consumer carpet from landfills.

Describe other environmental impacts as data are available, e.g., green house gas emissions. Descriptions of any enforcement actions or problems related to plan implementation.

Describe efforts to increase the market growth of secondary products made from post-consumer carpet.

Describe number of jobs attributable to the carpet stewardship program as data are available.

(B) Information on goals shall be accompanied by supporting information covering, but not be limited to the following topics:

Report describes the measurement methodology, assumptions, conversion factors, and data sources.

Report demonstrates that over time source reduction, reuse, and recycling increased,

while environmentally safe transformation and land disposal decreased.

Report demonstrates continuous meaningful improvement toward achievement of goals.

Report covers progress toward achievement of all goals in the approved stewardship plan.

(6) Market Development. The annual report shall include a description of possible market development activities to incentivize the market growth of secondary products made from post-consumer carpet.

(7) Financing Mechanism. The annual report shall include a description and evaluation of the program's financing mechanism, including whether or not the funding was sufficient to recover, but not exceed, the full cost of the stewardship program. The annual report shall include, but not be limited to, the following total program cost information, and include any supporting documentation. Any proposed change in the amount of the carpet stewardship assessment fee must be submitted to the department for re-approval (See Section 18943 Criteria for Plan Approval):

(A) Total Program Cost

(B) Cost(\$)/capita

(C) Cost (\$)/pound collected

(D) Education/Communications (% of total program cost)

(E) End-of-life materials management (% of total program cost)

(F) Program administration (% of total program cost, including annual administrative fee for service payments to the department)

(G) Governance (program oversight) (% of total program cost)

(H) Total cost to local government (if applicable)

(I) Amount of the assessment, aggregate assessment funds collected, how spent and amounts of each major expenditure a. Funds, if spent on CAAF, must be supported with documentation reporting on economic and environmental impacts and that incentives shall expire, if they no longer serve a benefit.

(J) Surplus funding, if any, and how it will be applied to reduce program costs

(K) An evaluation of the assessment rate

(8) Outreach/Education. List educational outreach activities in the stewardship plan. Provide a description of educational materials that were provided to retailers, consumers, carpet removers/installers, contractors, during the reporting period (provide electronic samples). Identify the method used to determine the effectiveness of

educational and outreach surveys (e.g., surveys, hits on specific web pages, number of participants at events, etc). Education and outreach materials may include, but are not limited to, signage, written materials, advertising or other promotional materials pursuant to Section 42972 (a) (5) and Links to website(s) created and maintained by the manufacturer or stewardship organization.

(9) Audits. The annual report shall include an independent financial audit funded from the carpet stewardship assessment. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Comptroller General of the United States. The audit report shall also include a separate state compliance report on the carpet program requirements as directed by the department.

(A) The department may investigate further. If the department decides to further review the findings of the independent auditor, the review will be conducted based on same information the individual manufacturer or stewardship organization provided to the independent auditor.

(B) Financial audits must be prepared by a Certified Public Accountant.

(C) The department may request supplemental information from the individual manufacturer or stewardship organization during the course of review of a manufacturer- or stewardship organization-submitted financial audit, if necessary.

(D) The department will inform the individual manufacturer or the stewardship organization within 60 days of the results of its review.

(E) If after conducting further review of the audit, the Department deems it to be necessary, the Department may conduct its own audit.

Authority cited: *Section 40502, Public Resources Code.*

Reference: *Sections 42972, and 42976, Public Resources Code, and Section 19812, Title 5, California Code of Regulations.*

Section. 18945. Civil Penalties.

A civil penalty may be administratively imposed by the department on any person who is in violation of any provision of this Article. The responsible party or parties shall be determined by the department based on the totality of the circumstances.

(a) Any manufacturer offering carpet for sale or for promotional purposes in California or a manufacturer or stewardship organization submitting a plan or report to the department is subject to enforcement under this Article. Manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.

(b) Notwithstanding paragraph (a), a product manufacturer is not subject to any penalty for failing to comply if that product manufacturer can demonstrate that it provided true

and accurate information to the stewardship organization and the stewardship organization failed to properly report this on behalf of the manufacturer.

(c) A stewardship organization is not subject to a penalty for failure to comply as a result of submitting false or misleading information if it can demonstrate that it received false or misleading information from a manufacturer that was the direct cause of its failure to comply with this Article.

(d) Any wholesaler or retailer that offers carpet for sale in the state, or who offers carpet for promotional purposes in the state, is subject to enforcement under this Article.

Authority cited: *Sections 40502 and 42974, Public Resources Code.*

Reference: *Sections 42974, and 42978, Public Resources Code.*

Section. 18945.1. Amount of Civil Penalties and Administrative Penalty Schedule.

(a) Civil penalties may be imposed administratively in accordance with the following penalty tables:

(1) Base Penalty Table I is to be used for stewardship organizations and manufacturers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table I: For Stewardship Organizations and Manufacturers

<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC 42972(a)	Failure to submit, individually or through a stewardship organization, a stewardship plan to the Department	Level 3
PRC 42973(b)	Failure to resubmit a stewardship plan within 60 days after receiving a notice of disapproval from the Department	Level 1
14 CCR 18942(b)(2)	Failure to resubmit a stewardship plan within 60 days after receiving a conditional approval from the Department	Level 1
PRC 42972(e)	Failure to notify the Department within 30 days after instituting a significant or material change to a Department-approved stewardship plan	Level 2
PRC 42975	Failure to meet the goals included in an organization's stewardship plan	Level 2
PRC 42976	Failure to submit, individually or through a stewardship organization, an annual report to the Department	Level 3
PRC 42976	Annual report does not contain required elements	Level 2
PRC 42977(a)	Failure to pay an annual administration fee to the Department	Level 3
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3

PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(2) Base Penalty Table II is to be used for wholesalers and retailers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Wholesalers and Retailers

Violation	Description of Violation	Severity
PRC 42974(b)	Offering a carpet for sale or for promotional purposes that is not subject to a Department-approved stewardship plan	Level 3
PRC 42972(c)(3)(B)	Stewardship assessment is not clearly visible on invoice or functionally equivalent billing document as a separate line item	Level 1
PRC 42972(c)(3)(B)	Invoice or functionally equivalent billing document is not accompanied by a brief description of the stewardship assessment or a Department-approved label	Level 1
14 CCR 18946	Failure to meet record keeping requirements	Level 2

(b) For the purpose of implementing this [Section/Article], penalty severity levels are described as follows:

(1) For a violation classified as Level 1, the amount of the base penalty may be up to \$1,000 per day.

(2) For a violation classified as Level 2, the amount of the base penalty may be up to \$5,000 per day.

(3) For a violation classified as Level 3, the amount of the base penalty may be up to \$10,000 per day.

(c) The department will set the final penalty amount after considering the criteria set forth in Section 18945.2. The department may increase the final penalty beyond the penalty range established pursuant to paragraphs (a) and (b), if it determines, after considering the criteria set forth in Section 18945.2, that such an increase is warranted and appropriate.

Authority cited: *Sections 40502 and 42974, Public Resources Code.*

Reference: *Sections 42972, 42973, 42974, 42975, 42976 and 42977, Public Resources Code, and Section 11506 Government Code.*

Section. 18945.2. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this chapter, the department or the court shall consider all the following:

- (a) The nature, circumstances, extent, and gravity of the violation(s).
- (b) The number and severity of the violation(s).
- (c) Evidence that the violation was intentional, knowing or negligent.
- (d) The size of the violator.
- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

Authority cited: *Sections 40502 and 42974, Public Resources Code.*

Reference: *Sections 42978, Public Resources Code.*

Section. 18945.3. Procedure for Imposing Civil Penalties.

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code Section 11505(c).

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

- (1) Personal service.
- (2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure.
- (3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and

accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the Department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at Section 11505(c) of the Government Code applies.

(c) Civil penalties may be imposed pursuant to the Public Resources Code Section 42978 in the discretion of the trier of fact in the civil proceeding.

Authority cited: *Sections 40502 and 42974, Public Resources Code.*

Reference: *Sections 42978, Public Resources Code, and Section 11500, Government Code.*

Section. 18946. Record Keeping Requirements

Each stewardship organization, manufacturer, wholesaler, or retailer required to comply with Chapter 20 (commencing with Section 42970), Part 3, Division 30 of the Public Resources Code shall:

(a) Maintain records to support the requirements in this Article. Stewardship organizations and manufacturers must maintain records to support Sections 18943 and 18944. Wholesalers and retailers must maintain records on all carpet sold or offered for promotional purposes in the state including:

(1) The manufacturer of the carpet.

(2) The date(s) the retailer ordered or purchased the carpet from the manufacturer.

(3) The date(s) the retailer sold or offered the carpet for promotional purposes.

(4) Invoices or functionally equivalent billing documents.

(5) Certification letter(s) from the department if provided by a manufacturer to demonstrate that carpet from the manufacturer is or was subject to a department-approved stewardship plan.

(b) Provide the department with reasonable and timely access, as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article, upon request. The records required by this Article shall be accessible for three years.

(c) Make all records required by this Article available for inspection or audit by the department, or its agent and other duly authorized regulatory agencies during normal working hours.

(d) Submit copies of specified records to the department upon request or at a frequency approved by the department.

(e) The department may take disciplinary action against any stewardship organization or manufacturer who fails to provide the department with access pursuant to this Section including, but not limited to, imposing penalties and the immediate removal from the department's list of manufacturers that are in compliance with Chapter 20 (commencing with Section 42970), Part 3, Division 30 of the Public Resource Code and this Article.

Authority cited: *Sections 40502 and 42974, Public Resources Code.*

Reference: *Sections 42972, 42972.5, 42973, 42974, 42975, 42976, 42977, 42977.1, 42978 and 42981, Public Resources Code.*

Section. 18947. Proprietary, Confidential, or Trade Secret Information.

The public disclosure of records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret shall be subject to the disclosure provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with Section 17041).

Authority cited: *Section 6253, Government Code; and Sections 40502 and 42972-42977.1, Public Resources Code.*

Reference: *Sections 6250 et seq., Government Code; and Sections 40062 and 42323, Public Resources Code.*

Section. 18948. Service Payments to Department of Resources, Recycling and Recovery.

(a) Not later than April 30 of each year, commencing in 2012, the department shall notify each carpet stewardship organization that has submitted a carpet stewardship plan which the department has approved the amount of the annual fee described in Public Resources Code Section 42977, subdivision (a). The fee shall reflect the department's actual annual costs to administer and enforce this chapter for the period from May 1 of the prior year through April 30 of the current year. For payments due in 2012, 2013 and 2014, the fee shall also reflect the department's actual annual costs to develop these regulations and the carpet stewardship program. The department's costs shall include the cost of staff, overhead expenses applicable to staff, contract services and any other expenses incurred in administering or enforcing the program and in developing these regulations and the program.

(b) If the department approves or conditionally approves, more than one stewardship plan for a fiscal year, the fee shall be prorated equally among the carpet stewardship organizations submitting approved or conditionally approved stewardship plans.

(c) The department will issue invoices to each carpet stewardship organization to which this Section applies by May 31 of each year. Payment is due annually on July 1.

(d) The department's approval of a stewardship plan shall be revoked if payment is not

received by July 1. Plans revoked for lack of payment may be reinstated upon payment.

Authority cited: *Sections 40502 and 42977, Public Resources Code.*
Reference: *Section 42977, Public Resources Code.*

Article 2. Architectural Paint Recovery Program

Section. 18950. Purpose.

The purpose of this Article is to clarify existing statute and establish administrative procedures to efficiently and effectively implement the department's responsibilities under the law and to provide a uniform competitive business environment to all architectural paint manufacturers pursuant to §48700 of the Public Resources Code (PRC).

Authority cited: *Sections 40401 and 40502, Public Resources Code.*
Reference: *Sections 48700, Public Resources Code.*

Section. 18951. Definitions

(a) Except as otherwise noted, the definitions of this Article supplement and are governed by the definitions set forth in Chapter 5 (commencing with §48700), Part 7, Division 30 of the Public Resources Code:

(1) "Must" or "shall" means a provision is mandatory.

(2) "May" means a provision is permissive.

(b) "Administrative fee" means the fee imposed by the department on the architectural paint manufacturer or stewardship organization in order to cover the costs of administering and enforcing the statute.

(c) "Assessment" means the amount added to the purchase price of architectural paint sold in this state necessary to cover the cost of implementing a manufacturer or stewardship organization's paint stewardship program.

(d) "Brand" means a name, sign, symbol, slogan, or anything that is used to identify and distinguish a specific architectural paint product.

(e) "Collection" means any method by which a service provider receives postconsumer architectural paint from a consumer.

(f) "Operational costs" means costs to operate a manufacturer or stewardship organization's paint stewardship program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs.

(g) "Reporting period" means a consecutive 12-month period as specified in statute.

(h) "Service provider" means an entity, including, but not limited to, local household hazardous waste collection programs and retailers, that contracts with a manufacturer or stewardship organization to provide services including, but not limited to, collection, consolidation, transportation, processing, or proper disposal of postconsumer architectural paint.

(i) "Significant or material change" means any modification of the architectural paint stewardship assessment previously approved by the department.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48702, 48703, 48704 and 48705, Public Resources Code.*

Section. 18952. Submittals.

(a) A corporate officer, acting on behalf of an architectural paint manufacturer or stewardship organization, shall submit as part of the stewardship plan the following information:

(1) Contact information of the corporate officer responsible for submitting stewardship plan and annual report documents to the department and for overseeing paint stewardship program activities, including, but not limited to:

(A) Contact Name

(B) Title

(C) Name and Company or Stewardship Organization

(D) Mailing address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(2) List and contact information for each architectural paint manufacturer participating in the stewardship organization, including, but not limited to:

(A) Name of Company

(B) Mailing or corporate address

(C) Web address (if applicable), Contact Name, Title, Phone Number, and e-mail address of participating architectural paint manufacturers shall be provided to the department upon request. The department shall include a reason for any request of this information. The requested information shall be submitted within 30 days of the request unless extended as determined by the department.

(3) List of brands covered under the stewardship plan.

(b) The stewardship plan may be submitted electronically according to instructions provided by the department. A hard copy, signed by a corporate officer of a manufacturer or stewardship organization, must be submitted to the department.

(1) The information submitted in a stewardship plan shall address the criteria for approval in §18953 and be organized according to this standard outline:

(A) Contact Information

(B) Program Goals and Activities

(C) Collection Systems

(D) Financing Mechanism

(E) Education and Outreach

(F) Stakeholder Consultation

(2) The department shall determine if the plan is complete and notify the submitting manufacturer or stewardship organization within 30 days. If the department finds that the stewardship plan is complete, the department's 90-day review period for consideration of approval of the stewardship plan, set forth in Public Resources Code Section 48704, will commence upon the original date of receipt. If the stewardship plan is incomplete, the department shall identify what additional information must be submitted to make it complete and the plan shall be resubmitted within 30 days. If the department determines upon resubmittal that the plan is complete, the department's 90-day review period for consideration of approval of the stewardship plan will commence upon the original date of receipt of the resubmittal.

(3) The department may approve, disapprove, or conditionally approve a stewardship plan.

(A) The plan must be approved if it provides for the establishment of a paint stewardship program that meets the requirements of Public Resources Code Section 48703.

(B) If the department conditionally approves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall comply with the conditions of approval within 60 days of the notice date. If the conditions are met, the department shall approve the plan.

(C) If the department disapproves a plan, the department shall identify the deficiencies in the plan and the manufacturer or stewardship organization shall resubmit a plan or provide supplemental information requested by within 60 days of the notice date.

(D) If the department conditionally approves a plan and the conditions are not met, the

department shall disapprove the plan.

(4) The stewardship plan must be submitted for re-approval upon any significant or material change, as defined. The department shall review the revised stewardship plan within 90 days of receipt and make a determination whether or not to approve the plan.

(5) The approved stewardship plan shall be a public record, except that financial, production, or sales data reported to the department by a manufacturer or stewardship organization is not a public record under the California Public Records Act, as described in Chapter 3.5 (commencing with § 6250) of Division 7 of Title 1 of the Government Code and shall not be open to public inspection. The department may release financial, production, or sales data in summary form only that cannot be attributable to a specific manufacturer.

(c) The annual report shall be submitted by a corporate officer acting on behalf of a manufacturer or stewardship organization that is operating an architectural paint stewardship program under a department-approved stewardship plan.

A hard copy, signed by a corporate officer of a manufacturer or stewardship organization must be submitted.

(1) The information submitted in an annual report shall address the criteria for a finding of compliance per §18954 and be organized according to this standard outline:

(A) Contact Information

(B) Executive Summary

(C) Program Outline

(D) Description of Goals and Activities Based on the Stewardship Plan

(E) Financing Mechanism

(F) Education and Outreach

(G) Audits

(2) The department shall determine if the report is complete and notify the submitting manufacturer or stewardship organization within 30 days. If the department finds that the annual report is complete, the department's 90-day review period for the annual report, set forth in Public Resources Code §48705, will commence upon the original date of receipt. If the annual report is incomplete, the department shall identify what additional information must be submitted to make it complete and the report shall be resubmitted within 30 days. If the department determines upon resubmittal that the report is complete, the department's 90-day review period of the report will commence upon the original date of receipt of the resubmittal.

(3) The department may adopt a finding of compliance, non-compliance, or conditional approval for an annual report.

(A) If the department adopts a finding of compliance, the manufacturer or stewardship organization may continue to sell or offer paint for sale in the state.

(B) If the department conditionally approves a report, the department shall identify the deficiencies in the report and the manufacturer or stewardship organization shall comply with the conditions of approval within 60 days of the notice date. If the conditions are met, the department shall adopt a finding of compliance.

(C) If the department adopts a finding of non-compliance, the department shall identify the deficiencies in the report and the manufacturer or stewardship organization shall resubmit a report or provide supplemental information requested by within 60 days of the notice date.

(D) If the department conditionally approves a report and the conditions are not met, the department shall adopt a finding of non-compliance.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 40502, 48700, 48702, 48703, 48704 and 48705, Public Resources Code.*

Section. 18953. Stewardship Plan Approval Criteria

(a) Paint stewardship plans must follow the standard outline per §18952 and contain the following:

(1) Contact information. Identify the manufacturer or designated stewardship organization responsible for the stewardship plan submittal. A manufacturer or stewardship organization shall provide updates to the list of manufacturers and brands participating in its program within 30 days of any changes to that list.

(2) Program Goals and Activities. Include program goals that are specific to and appropriate for California. Factors to consider when determining program goals may include the current and future recycling infrastructure and capacity and changes in market conditions in California. Description of goals must include a baseline, to be provided by the manufacturer or stewardship organization, from which the goals will be measured and reported in the manufacturer or stewardship organization's annual reports. The baseline should indicate the status of household hazardous waste management in California at the time of plan submission. Describe how the goals will be measured, including a description of the methodology used for estimating the amount of leftover paint available for collection in California. Describe how the program will:

(A) Reduce the generation of postconsumer paint;

(B) Promote the reuse of postconsumer paint;

(C) Properly manage postconsumer paint at end-of-life in an environmentally sound fashion, including recovery, recycling, and proper disposal of postconsumer paint; and

(D) Manage paint containers and undertake market development activities, if a manufacturer or stewardship organization chooses to engage in these activities.

(3) Collection Systems. Describe the system that will be used to collect and properly manage postconsumer architectural paint to demonstrate how there will be sufficient funding for the program and how it will be implemented in an environmentally sound fashion. This description must include the following:

(A) Collection methods used for architectural paint, by type.

(B) Destination for reuse activities, processing (including recycling) and/or disposal for architectural paint, by type.

(C) Description of best management practices to be followed by service providers that are acting as collection points, which may include any training that the manufacturer or stewardship organization intends to provide to or require of service providers to ensure proper collection and management of postconsumer architectural paint.

(D) Description of how each consumer of architectural paint in California will have an opportunity to recycle and properly manage their unwanted architectural paint on a state wide basis, including the proposed number, location, and type of collection points located in the state.

(E) Address the coordination of the architectural paint stewardship program with existing local household hazardous waste collection programs. A manufacturer or stewardship organization must negotiate with existing local household hazardous waste collection programs wanting to participate in the paint stewardship program as a collection point as much as is reasonably feasible and is mutually agreeable.

(F) Address the coordination of the architectural paint stewardship program with potential retail collection points. Any retailer may participate, on a voluntary basis, as a paint collection point pursuant to the paint stewardship program. A manufacturer or stewardship organization must negotiate with any retailer wanting to participate in the paint stewardship program as a collection point, as much as is reasonably feasible and is mutually agreeable.

(4) Financing Mechanism. Include a funding mechanism that provides sufficient funding to recover, but not exceed, the cost of the architectural paint stewardship program, including the administrative (including financial audits per PRC §48705(a)(6)), operational, and capital costs of the program. The funding mechanism includes the following:

(A) The amount of the assessment per unit of architectural paint sold in the state.

(B) A budget for the program that includes revenue estimates from the assessment,

operational costs, capital costs, and administrative costs (including those pursuant to §18958 re: service payment to the department).

(C) Stewardship organization and manufacturers shall allocate revenues and expenditures applicable to this program in accordance with Generally Accepted Accounting Principles (GAAP).

(5) Education and Outreach. Include a description of education and outreach efforts to consumers, contractors, and retailers to promote source reduction and recycling of architectural paint. The description shall include how the outreach and education methods will be used and distributed. Educational information may include, but is not limited to, signage, written materials, advertising, or other promotional materials pursuant to PRC §48703(e). A manufacturer or stewardship organization may not advertise a collection point(s) as being part of a manufacturer or stewardship organization's program that is not a contracted collection point for the manufacturer or stewardship organization's stewardship program. This provision does not apply to referrals to collection points based on publically available information.

(6) Stakeholder Consultations. In addition to existing local household hazardous waste collection programs per §18953(a)(3)(E), other stakeholders that may be consulted include, but are not limited to, consumers, retailers, architectural paint recyclers, architectural paint contractors, and haulers.

(b) The manufacturer or stewardship organization submitting the stewardship plan shall provide, upon request, additional information to assist the department as may be necessary for the approval of the plan in compliance with the California Environmental Quality Act.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48702, 48703, 48704 and 48705, Public Resources Code.*

Section. 18954. Annual Report Compliance Criteria.

(a) The annual report must contain the following:

(1) Contact information. Identify the manufacturer or stewardship organization responsible for the annual report submittal. Stewardship organizations shall include an updated list of participating manufacturers and any updates to their respective contact information per §18952(a)(2).

(2) Executive Summary. The purpose of the Executive Summary is to provide a broad understanding of the manufacturer or stewardship organization's program as a whole and to put into context the data and information that will follow. Provide a brief description of the manufacturer or stewardship organization's architectural paint recovery efforts during the reporting period pursuant to PRC §48705(a). This may include anticipated steps, if needed, to improve performance and a description of challenges encountered during the reporting period and how they will be addressed. This may also include a description of paint container management and market

development activities if the manufacturer or stewardship organization has chosen to engage in those activities.

(3) Program Outline. Describe the paint stewardship program, including information on the following topics:

(A) A description of the methods used to collect, transport, and process postconsumer architectural paint, by type, in California.

(B) Description of how each consumer of architectural paint in California had an opportunity to recycle and properly manage their postconsumer paint on a state wide basis, including the number, location, and type of collection points located in the state.

(C) Description of best management practices followed by service providers that are acting as collection points, which may include any training that the manufacturer or stewardship organization provided or required of service providers to ensure proper collection and management of postconsumer paint.

(D) A statement that the manufacturer or stewardship organization coordinated with existing household hazardous waste collection programs and retailers as potential collection points per Section 18953(a)(3)(E) and (F) during the reporting period.

(4) Description of goals and activities based on the stewardship plan. State goals from the approved stewardship plan, the baseline from which goals were measured, and report on achievement during the reporting period. Describe any adjustments to goals stated in the approved stewardship plan that may be made for the upcoming reporting period and accompanying rationale for those changes. The annual report must include quantitative information and discussion on the following categories pursuant to PRC §48705(a) and PRC §48703(d):

(A) The total volume of architectural paint sold, by type, in the state during the preceding reporting period.

(B) The total volume of postconsumer architectural paint recovered, by type, in the state during the preceding reporting period.

(C) Disposition of postconsumer paint collected, by type and by estimated volume, including name(s) and corporate address(es) for contracted processors for each

(5) Financing Mechanism. The annual report shall include the total cost of implementing the architectural paint stewardship program and an evaluation of how the program's funding mechanism operated, including whether or not the funding was sufficient to recover, but not exceed, the administrative, operational, and capital costs of the manufacturer or stewardship organization's program. Include a statement that any surplus funds are put back into the program to reduce the costs of the program, including the assessment amount. Any proposed change in the amount of the architectural paint stewardship assessment must be submitted to the department for re-approval (see §18952. Submittals). If a manufacturer or stewardship organization

conducts activities that are separate from the implementation and management of the California paint stewardship program, then the annual report shall include documentation on how the collection and expenditure of assessment funds shall be kept separate from other activities of the manufacturer or stewardship organization and the methodology for distribution of shared costs. Consistent with PRC §48705(a)(5), the annual report shall include the following:

- (A) Assessment amount per container
- (B) Total program cost
- (C) Capital costs
- (D) Cost(\$)/capita
- (E) Cost (\$)/gallon collected
- (F) Education/Outreach (% of total program cost)
- (G) End-of-life materials management (% of total program cost, with line items for reuse, transportation, recycling, fuel incineration, and proper disposal)
- (H) Program administration (% of total program cost, including annual administrative fee for service payments to the department)
- (I) Surplus funding, if any, and how it will be applied to reduce program costs

(6) Education and Outreach. Describe educational and outreach activities in context of those identified in the stewardship plan. Provide a description of educational materials that were provided to retailers, consumers, and contractors during the reporting period and provide electronic examples of these materials. Identify any method(s) used to determine the effectiveness of educational and outreach efforts (e.g., surveys, hits on specific web pages, number of participants at events, etc.), if applicable. These education and outreach materials may include, but are not limited to, any of the following per PRC §48703(e):

- (A) Signage that is prominently displayed and easily visible to the consumer.
- (B) Written materials and templates of materials for reproduction by retailers to be provided to contractors and consumers at the time of purchase or delivery or both.
- (C) Promotional materials or activities, or both, that explains the purpose of paint stewardship and the means by which it is being carried out.
- (D) Links to website(s) created and maintained by the stewardship organization.
- (7) Audits. The annual report shall include an independent financial audit of the California Architectural Paint Recovery Program funded from the paint stewardship

assessment. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Comptroller General of the United States. The financial audit submitted to the department shall be prepared by an Independent Certified Public Accountant (CPA). The CPA shall not perform non-audit services for the manufacturer or stewardship organization that would impair independence as defined in the Government Auditing Standards issued by the Comptroller General of the United States (e.g., accounting services, development of internal controls, management decisions). The independent financial audit shall include:

(A) California Architectural Paint Recovery Program financial statements, as required by GAAP.

(B) An opinion on the manufacturer or stewardship organization's compliance with the financial aspects of PRC §48700 and Title 14, Division 7, Chapter 11, Article 2 of the California Code of Regulations.

(C) Findings and recommendations as they relate to the financial aspects of the Architectural Paint Recovery Program.

(D) Management Letter, if issued, by the manufacturer or stewardship organization's CPA.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48703 and 48705, Public Resources Code.*

Section. 18955. Civil Penalties.

A civil penalty may be administratively imposed by the department on any person who is in violation of any provision of this Article. The responsible party or parties shall be determined by the department based on the totality of the circumstances.

(a) Any manufacturer offering architectural paint for sale in California or a manufacturer or stewardship organization submitting a stewardship plan or annual report to the department is subject to enforcement under this Article. Architectural paint manufacturers are subject to penalties as a result of the failure of their designated stewardship organization to comply with this Article on their behalf.

(b) Notwithstanding paragraph (a), an architectural paint manufacturer is not subject to any penalty for failing to comply if that manufacturer can demonstrate that it provided true and accurate information to the stewardship organization and the stewardship organization failed to properly report this on behalf of the manufacturer.

(c) A stewardship organization is not subject to a penalty for failure to comply as a result of submitting false or misleading information if it can demonstrate that it received false or misleading information from an architectural paint manufacturer that was the direct cause of its failure to comply with this Article.

(d) Any manufacturer or retailer that offers architectural paint for sale in the state is subject to enforcement under this Article.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48702 and 48704, Public Resources Code.*

Section. 18955.1. Amount of Civil Penalties and Administrative Penalty Schedule.

(a) Civil penalties may be imposed administratively in accordance with the following penalty tables:

(1) Base Penalty Table I is to be used for stewardship organizations and architectural paint manufacturers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table I: For Stewardship Organizations and Architectural Paint Manufacturers

<i>Violation</i>	<i>Description of Violation</i>	<i>Severity</i>
PRC48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department-approved stewardship plan or listed as a compliant product on the department's website	Level 3
PRC 48702(a) and 48703(a)	Failure to submit, individually or through a stewardship organization, an architectural paint stewardship plan to the department	Level 3
14 CCR18952(b)(3)	Failure to resubmit a stewardship plan or provide supplemental information within 60 days after receiving a notice of disapproval or conditional approval from the department	Level 1
PRC 48704(c)	Failure to implement an architectural paint stewardship program described in a department- approved stewardship plan	Level 3
PRC 48704(e)	Failure to pay an annual administration fee to the department	Level 3
PRC 48705(a)	Failure to submit, individually or through a stewardship organization, an annual report to the department	Level 3
PRC 48705(a)	Annual report does not contain required elements	Level 2
14 CCR 18956	Failure to meet record keeping requirements	Level 2

(2) Base Penalty Table II is to be used for retailers.

(A) Identify what violations have occurred.

(B) Identify the severity of the violations.

(C) Establish the possible range of the base penalty per violation based on the severity levels described in paragraph (b).

Base Penalty Table II: For Retailers

Violation	Description of Violation	Severity
PRC 48702(b)(1)	Selling or offering for sale in this state, to any person in this state, architectural paint that is not covered under a department-approved stewardship plan or listed as a compliant product on the department's website.	Level 3
14 CCR 18956	Failure to meet record keeping requirements.	Level 2

(b) For the purpose of implementing this Article, penalty severity levels are described as follows:

(1) For a violation classified as Level 1, the amount of the base penalty may be up to \$1,000 per day.

(2) For a violation classified as Level 2, the amount of the base penalty may be up to \$5,000 per day.

(3) For a violation classified as Level 3, the amount of the base penalty may be up to \$10,000 per day.

(c) A penalty amount may exceed \$1,000 per day only if a person intentionally, knowingly, or negligently violates this Article.

(d) The department will set the final penalty amount after considering the criteria set forth in Section 18955.2. The department may increase the final penalty beyond the penalty range established pursuant to paragraphs (a) and (b), if it determines, after considering the criteria set forth in Section 18955.2, that such an increase is warranted and appropriate.

(e) If the department sets an aggregated penalty amount for multiple violations, the aggregated penalty amount shall not exceed \$1,000 per day per manufacturer,

stewardship organization, or retailer. If a person intentionally, knowingly, or negligently violates this Article, the aggregated penalty amount shall not exceed \$10,000 per day per manufacturer, stewardship organization, or retailer.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48702, 48703, 48704 and 48705, Public Resources Code; and Section 11506, Government Code.*

Section. 18955.2. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this chapter, the department or the court shall consider all the following:

- (a) The nature, circumstances, extent, and gravity of the violation(s).
- (b) The number and severity of the violation(s).
- (c) Evidence that the violation was intentional, knowing, or negligent.
- (d) The size of the violator.
- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Section 48704, Public Resources Code.*

Section. 18955.3. Procedure for Imposing Civil Penalties.

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Chapter 5 (commencing with §11500) of Part 1 of Division 3 of Title 2 of the Government Code with the exception of Government Code §11505(c).

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service by using the same service procedures as described in §415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who have submitted a stewardship plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) provided in the stewardship plan on file with the department. Any address provided in the stewardship plan may be used for service of process. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a stewardship plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at §11505(c) of the Government Code applies.

(c) Civil penalties may be imposed pursuant to the Public Resources Code §48704(f) in the discretion of the trier of fact in the civil proceeding.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Section 48704, Public Resources Code; and Section 11500, Government Code.*

Section. 18956. Record Keeping Requirements.

Each stewardship organization, manufacturer, or retailer required to comply with Chapter 5 (commencing with §48700, Part 7, Division 30 of the Public Resources Code) shall:

(a) Maintain records to support the requirements in this Article. Stewardship organizations and manufacturers must maintain records to support Section 18954. Retailers must provide access to existing records on all architectural paint sold or offered for sale in the state including:

(1) The manufacturer of the paint.

(2) The date(s) the retailer purchased the paint from the manufacturer.

(3) The date(s) the retailer sold the paint.

(4) Certification letter(s) from the department, if provided by a manufacturer, to demonstrate that paint from the manufacturer is or was subject to a department-approved stewardship plan. A retailer must provide access to a certification letter only if it is being used as proof of compliance, pursuant to PRC §48702(c)(2), that a manufacturer not listed on the department's internet website is in compliance and may sell or offer for sale paint in California.

(b) Provide the department with reasonable and timely access, as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article, upon request. Retailers will maintain and provide access to records required by this Article for 3 years. Manufacturers and stewardship organizations will maintain and provide access to records required by this Article for three years after submission of the annual report which relies upon those records.

(c) The department may take disciplinary action against any stewardship organization or manufacturer who fails to provide the department with access pursuant to this subdivision. If any stewardship organization or manufacturer fails to comply after the imposition of a civil penalty, the department may immediately remove the manufacturer(s) from the department's list of manufacturers that are in compliance with Chapter 5 (commencing with §48700), Part 7, Division 30 of the Public Resource Code.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 48700, 48702, 48703, 48704 and 48705, Public Resources Code.*

Section. 18957. Proprietary, Confidential, or Trade Secret Information.

Records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret shall be subject to the provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with §17041), and in PRC §48704(b).

Authority cited: *Sections 40401 and 40502, Public Resources Code; and Section 6253, Government Code.*

Reference: *Sections 48700, 48702, 48704, 48705 and 48706, Public Resources Code; and Sections 6250 et seq., Government Code.*

Section. 18958. Service Payments to Department of Resources Recycling and Recovery.

(a) The department director, or his/her delegated authority, shall approve the annual administrative fee described in Public Resources Code Section 48704, subdivision (e) for the full administration and enforcement costs at a public meeting that will occur no later than September 30, commencing in 2012. The fee shall reflect the department's actual costs to administer and enforce this chapter for the period from July 1 of the prior year through June 30 of the current year. The department's costs shall include the cost of staff, overhead expenses applicable to staff, contract services, and any other expenses incurred in administering or enforcing the program and in developing this regulation and the program. For payments due in 2012, the fee shall also reflect the department's actual costs incurred in developing this regulation and the program for the period from October 1, 2010 through June 30, 2011. The department will provide unofficial staff estimates upon request prior to the public meeting notification to assist a manufacturer or stewardship organization with program budgetary planning, however, actual costs will not be known until that public meeting.

(b) The department fee shall be prorated, if there is more than one stewardship plan, by

the number of approved or conditionally-approved plans.

(c) The department shall issue invoices to each manufacturer or stewardship organization to which this Section applies by September 30 each year. Payment is due annually on October 31.

Authority cited: *Sections 40401, 40502 and 48704, Public Resources Code.*

Reference: *Sections 48700, 48703 and 48704, Public Resources Code.*

Article 3. Used Mattress Recovery and Recycling Program

Section. 18959. Purpose.

The purpose of this Article is to clarify existing statute and establish administrative procedures to efficiently and effectively implement the department's responsibilities under the law and to provide a uniform competitive business environment to all mattress manufacturers, renovators, distributors, recyclers, and retailers pursuant to Chapter 21 (commencing with Section 42985), Part 3, Division 30 of the Public Resources Code.

Authority cited: *Section 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42985.1, 42986, 42987, 42987.1, 42987.2, 42987.3, 42987.4, 42987.5, 42988, 42988.1, 42988.2, 42989, 42989.1, 42989.2, 42989.2.1, 42989.3, 42990, 42990.1, 42990.2, 42991, 42992, 42993, 42993.1, 42993.2, 42993.3, 42993.4, 42994, Public Resources Code.*

Section. 18960. Definitions.

(a) Except as otherwise noted, the definitions of this Article supplement and are governed by the definitions set forth in Chapter 21 (commencing with Section 42985), Part 3, Division 30 of the Public Resources Code:

(b) "Brand" means a name, term, symbol, design, type, Uniform Registry Number (URN) or any other feature that attributes a mattress to the manufacturer or renovator of such mattress.

(c) "Collection" means any method by which a service provider receives used mattresses.

(d) "Operational costs" means costs to operate a mattress recycling organization's mattress recycling program, including, but not limited to, collection, transportation, processing, disposal, and education and outreach costs.

(e) "Significant or material change" includes a change in a required element of the used mattress recovery and recycling plan that affects the organization's costs or revenues, such as a change that results in a modification of the recycling charge, a change that requires a party other than the mattress recycling organization to make a major change in how it participates in the program, or a change that reduces the goals set for the organization in the existing approved recycling plan.

Authority cited: *Section 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42985.1, 42986, 42987, 42987.1, 42987.2, 42987.3, 42987.4, 42987.5, 42988, 42988.1, 42988.2, 42989, 42989.1, 42989.2, 42989.2.1, 42989.3, 42990, 42990.1, 42990.2, 42991, 42992, 42993, 42993.1, 42993.2, 42993.3, 42993.4, 42994, Public Resources Code.*

Section. 18961. Used Mattress Recovery and Recycling Plan Submittal.

(a) A corporate officer, acting on behalf of a mattress recycling organization, shall submit as part of the used mattress recovery and recycling plan (plan) the following information:

(1) Contact information of the corporate officer responsible for submitting the plan to the department and for overseeing used mattress recycling program activities, including, but not limited to:

(A) Contact name

(B) Title

(C) Name of mattress recycling organization

(D) Mailing address

(E) Phone number

(F) E-mail address

(G) Web address, if applicable

(2) List contact information for each manufacturer, renovator, and retailer the mattress recycling organization is composed of, including, but not limited to:

(A) Name of Company

(B) Mailing or corporate address

(C) Upon request by the department, the following information shall be provided, if available: individual Web address, contact name, title, phone number, and e-mail address of participating manufacturers, renovators, and retailers. The requested information shall be submitted within 30 days of the request unless extended as determined by the department.

(3) List of brands covered under the plan.

(4) Any changes to the information in subsections (1), (2), and (3) of subdivision (a) of this Section shall be submitted to the department quarterly, or more frequently as the mattress recycling organization desires, according to instructions provided by the department.

(b) The plan may be submitted electronically according to instructions provided by the department. If the plan is submitted electronically, the date of electronic submittal will be considered the date of receipt by the department, provided that the organization also submits to the department a hard copy submittal letter referencing the plan electronic document with the signature of a corporate officer of a mattress recycling organization.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987, 42987.1, 42987.2, 42987.3, Public Resources Code.*

Section. 18962. Used Mattress Recovery and Recycling Plan.

(a) A used mattress recovery and recycling plan (plan) shall follow the standard outline below and contain the following:

(1) Proof of Certification.

(2) Program Goals, Methods, and Activities.

(A) Identify program objectives consistent with California's solid waste management hierarchy as required by subdivision (a) of Section 42987.1 of the Public Resources Code.

(B) Describe how the program will meet the requirements of subdivisions (d), (g), (i), (j), (k), (l), (m), (o), and (p) of Section 42987.1 of the Public Resources Code.

(C) Describe proper end of life management of used mattresses, including but not limited to, a description of how the program will prevent cross contamination of mattresses by bed bugs.

(D) Describe how the program will increase the quantity of materials recovered and recycled, and market development activities that will be conducted in order to ensure these materials will be used.

(E) Describe how the program will provide convenient mattress collection and drop-off services, without unnecessary duplication of effort and expense, including, but not limited to, contractual agreements.

(F) Describe how consumers of mattresses in California will have a convenient opportunity to recycle and properly manage their used mattresses, including the number, location, and type of collection points in the program.

(G) For plans submitted after January 1, 2018, identify objectives and activities that will comply with the state mattress recycling goals, pursuant to Section 42987.5 of the Public Resources Code.

(3) Contact information per Section 18961.

(4) Stakeholder Consultation Process per subdivision (c) of Section 42987.1 and

42987.2 of the Public Resources Code.

(5) Performance Measurement. Include the requirements of subdivisions (f) and (h) of Section 42987.1 of the Public Resources Code.

(6) Financing Mechanism. Includes the requirements of subdivisions (e) of Section 42987.1 of the Public Resources Code, and audits per subdivision (b) of Section 42990 of the Public Resources Code. A mattress recycling organization shall allocate revenues and expenses applicable to this program in accordance with Generally Accepted Accounting Principles (GAAP).

(7) Education and Outreach. Describe education and outreach efforts as required by subdivision (n) of Section 42987.1 of the Public Resources Code, including methods of distribution. The plan may also include a description of education and outreach efforts to all parties affected by the program and may include additional options available for consumers to dispose of their used mattresses, such as mattress renovation.

(8) Advisory Committee Report. Include the report by the mattress recycling organization advisory committee as required by subdivision (q) of Section 42987.1 of the Public Resources Code. The mattress recycling organization's plan may include a description of how it addressed the points or recommendations raised in the advisory committee report.

(b) A mattress recycling organization submitting a plan shall provide, upon request, additional information that is reasonably related to compliance with the recycling plan and that the organization can reasonably compile to assist the department as may be necessary for the approval of the plan.

(c) The department shall determine if the plan is complete and notify the submitting mattress recycling organization within 30 days of receipt of the plan. If the department finds that the plan is complete, the department's 90-day review period for consideration of approval of the plan, set forth in Section 42987.3 of the Public Resources Code, will commence upon the original date of receipt. If the plan is incomplete, the department shall identify what additional information shall be submitted to make it complete and the plan shall be resubmitted within not less than 30 days or as determined by the director. If the department determines upon resubmittal that the plan is complete, the department's 90-day review period for consideration of approval of the plan will commence upon the original date of receipt of the resubmittal.

(d) If the department conditionally approves a plan, the department shall identify the deficiencies in the plan and the mattress recycling organization shall comply with the conditions of approval within not less than 60 days or as determined by the director of the notice date. If the conditions are met, the department shall approve the plan.

(e) If the department conditionally approves a plan and the conditions are not met, the department shall disapprove the plan.

(f) If the department disapproves a plan, the department shall identify the deficiencies in

the plan and the mattress recycling organization shall resubmit a plan or provide supplemental information requested within not less than 60 days of the notice date or as determined by the director.

(g) The mattress recycling plan shall be submitted for re-approval upon any significant or material change, as defined. The department shall review the revised plan within 90 days of receipt. The department may approve, disapprove, or conditionally approve the revised plan. The department may also require the mattress recycling organization to resubmit a revised mattress recycling budget if there is a significant or material change, as defined.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987, 42987.1, 42987.2, 42987.3, 42989.1, 42989.2, 42989.2.1, 42989.3, Public Resources Code.*

Section. 18963. Mattress Recycling Charge and Annual Budget.

(a) A corporate officer, acting on behalf of a mattress recycling organization, shall submit a used mattress recycling program budget on or before July 1, 2015, and on or before July 1 annually thereafter. The annual budget may be submitted electronically according to instructions provided by the department. If the annual budget is submitted electronically, the date of electronic submittal will be considered the date of receipt by the department, provided that the organization also submits to the department a hard copy submittal letter referencing the annual budget electronic document with the signature of a corporate officer of a mattress recycling organization.

(b) In addition to the requirements of subdivisions (a), (b), and (c) of Section 42988 of the Public Resources Code, the information submitted in the used mattress recycling program budget shall contain the following:

(1) Contact information. Identify the corporate officer of the mattress recycling organization responsible for annual used mattress program budget submittal.

(2) Anticipated revenues and costs. Describe anticipated revenues and costs of implementing the program, including related programs, projects, contracts, and administrative expenses.

(3) Mattress recycling charge and itemization. Identify the amount of the mattress recycling charge, including an itemization of costs that each charge covers.

(4) For used mattress recycling program budgets submitted on or by July 1, 2017 all actual expenses incurred to date shall be included. For annual reports submitted thereafter, the previous two years of actual expenses shall be included.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987, 42988, 42988.1, 42988.2, 42989, 42989.1, 42989.2, 42989.2.1, 42989.3, Public Resources Code.*

Section. 18964. Mattress Recycling Organization Annual Report.

(a) The mattress recycling organization annual report shall be submitted by a corporate officer acting on behalf of a mattress recycling organization that is operating a used mattress recycling program under a department-approved used mattress recovery and recycling plan. The annual report may be submitted electronically according to instructions provided by the department. If the annual report is submitted electronically, the date of electronic submittal will be considered the date of receipt by the department, provided that the organization also submits to the department a hard copy submittal letter referencing the annual report electronic document with the signature of a corporate officer of a mattress recycling organization.

(b) The annual report shall follow the outline below and contain the following:

(1) Contact information. Identify the corporate officer of the mattress recycling organization responsible for annual report submittal.

(2) Executive Summary. The purpose of the Executive Summary is to provide a broad understanding of the mattress recycling organization's program as a whole and to put into context the data and information that will follow. Provide a brief description of the mattress recycling organization's used mattress recovery efforts during the calendar year pursuant to Section 18962.

(3) A description of the methods used to collect, transport, and process used mattresses in California.

(4) Include an updated list of participating manufacturers, renovators, and retailers and any updates to their respective contact information per Section 18961(a)(2) and an updated list of brands covered under the plan per Section 18961(a)(3).

(5) Description of how consumers of mattresses in California had an opportunity to recycle and properly manage their used mattresses, including the number, location, and type of collection points in the program.

(6) May include a description of activities to ensure proper collection and management of used mattresses.

(7) A description of methods used by the mattress recycling organization to coordinate with existing used mattress collection and recycling programs with regard to the proper management or recycling of discarded or abandoned mattresses.

(8) Description of objectives and activities based on the used mattress recovery and recycling plan, per Section 18962(a)(2). State objectives from the approved plan and describe progress toward achieving those objectives during the reporting period. Describe any adjustments to objectives stated in the approved plan that may be made for the upcoming reporting period and accompanying rationale for those changes. If any changes are significant or material, as defined, the mattress recycling organization shall amend and resubmit its plan for approval by the department. The annual report shall

include:

(A) Quantitative information on subdivisions (b), (c), (d), (e), (f), (g), and (j) of Section 42990.1 of the Public Resources Code, including conversion factor(s), if used. When describing the uses for the recycled materials, the annual report shall identify the secondary markets to which those materials are sold, and potential end uses of those materials.

(B) Qualitative and/or quantitative information on subdivisions (g), (l), and (m) of Section 42987.1 of the Public Resources Code.

(9) Financing Mechanism. Include the mattress recycling organization's total expenses and revenues associated with the implementation of the used mattress recycling program. Changes to the mattresses recycling charge shall be reflected in the annual program budget for approval by the department. If a mattress recycling organization changes the amount of the mattress recycling charge in the first 12 months during which the mattress recycling charge is being collected per subsection (1) of subdivision (c) of Section 42989 of the Public Resources Code, the mattress recycling organization shall provide the department no less than 90 days' notice before the change in the amount of the mattress recycling charge takes place. If a mattress recycling organization conducts activities that are separate from the implementation and management of the California used mattress recycling program, then the annual report shall include documentation on how the collection and use of funds from the California mattress recycling charge were kept separate from other activities of the mattress recycling organization, including the methodology for distribution of shared costs. Consistent with subdivision (a) of Section 42990.1 of the Public Resources Code, the annual report shall include the following:

(A) Mattress recycling charge per mattress size

(B) Capital costs

(C) Education/Outreach costs

(D) End-of-life used mattress management costs with line items, if applicable, for collection, transportation, recycling, renovating, reuse, and proper disposal

(E) Program administration costs including, but not limited to, the department's costs pursuant to subdivision (a) of Section 42988.2 of the Public Resources Code, and third party legal costs. Surplus funds, if any, and detailed rationale for the specified level of surplus.

(F) For the first 12 months during which the mattress recycling charge was collected, include a description of any changes to the amount of the mattress recycling charge, and how implementation of the change complied with subsection (1) or (2) of subdivision (c) of Section 42989 of the Public Resources Code, if applicable. The mattress recycling organization may also include a description of why the change was made.

(10) Education and Outreach. Provide a description of educational materials that were provided, including electronic examples of these materials. Identify any method(s) used to determine the effectiveness of educational and outreach efforts (e.g., surveys, hits on specific web pages, number of participants at events, etc.), if applicable. Describe any changes to those materials that are planned for subsequent years, if applicable.

(11) Audits. The annual report shall include an independent financial audit of the used mattress recovery and recycling program funded from the mattress recycling charge. The audit shall be conducted in accordance with auditing standards generally accepted in the United States of America, and standards set forth in Government Auditing Standards issued by the Controller General of the United States. The financial audit submitted to the department shall be prepared by an Independent Certified Public Accountant (CPA). The CPA shall not perform non-audit services for the mattress recycling organization that would impair independence as defined in the Government Auditing Standards issued by the Controller General of the United States (e.g., accounting services, development of internal controls, management decisions). The independent financial audit shall include:

(A) Mattress recycling program financial statements, as required by GAAP.

(B) An opinion on the mattress recycling organization's compliance with the financial aspects of Chapter 21 (commencing with Section 42985), Part 3, Division 30 of the Public Resources Code and Title 14, Division 7, Chapter 11, Article 3 of the California Code of Regulations.

(C) Findings and recommendations as they relate to the financial aspects of the program.

(D) Management Letter, if issued, by the mattress recycling organization's CPA.

(12) Advisory Committee Report. The annual report shall include the report of the advisory committee required by subdivision (k) of Section 42990.1 of the Public Resources Code. The mattress recycling organization's annual report may include a description of how it addressed the points or recommendations raised in the advisory committee report.

(13) Good faith effort. For annual reports submitted on and after July 1, 2019, a demonstration of good faith effort with the state mattress recycling goals established pursuant to Section 42987.5 (b) of the Public Resources Code.

(c) The department shall determine if the annual report is complete and notify the submitting mattress recycling organization within 30 days. If the department finds that the annual report is complete, the department's 60-day review period for consideration of approval of the annual report will commence upon the original date of receipt. If the annual report is incomplete, the department shall identify what additional information shall be submitted to make it complete and the annual report shall be resubmitted within not less than 60 days or as determined by the director. If the department determines upon resubmittal that the annual report is complete, the department's 60-day review

period for consideration of approval of the annual report will commence upon the original date of receipt of the resubmittal. The department may adopt a determination of compliance or non-compliance by approving, disapproving, or conditionally approving the annual report.

(1) If the department conditionally approves the annual report, the department shall identify the deficiencies in the annual report and the mattress recycling organization shall comply with the conditions of approval within not less than 60 days of the notice date or as determined by the director. If the conditions are met, the department shall approve the annual report.

(2) If the department disapproves the annual report, the department shall identify the deficiencies in the annual report and the mattress recycling organization shall resubmit an annual report or provide supplemental information requested within not less than 60 days of the notice date or as determined by the director.

(3) If the department conditionally approves an annual report and the conditions are not met, the department shall disapprove the annual report.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987.5, 42990, 42990.1, Public Resources Code.*

Section. 18965. Used Mattress Recycler Annual Report.

(a) An annual report shall be submitted to the department and the mattress recycling organization by a person that is engaged in business as a used mattress recycler. The annual report may be submitted electronically according to instructions provided by the department. A hard copy, signed by a corporate officer of a mattress recycler shall be submitted to the department upon request.

(b) The annual report shall contain the following:

(1) Contact information. Identify the corporate officer of the mattress recycler responsible for annual report submittal.

(2) Quantitative information on the number of used mattresses received from California sources and out of state sources and recycled in the state during the preceding calendar year. Conversion factor(s), if used, shall also be provided.

(3) Quantitative information on the number of used mattresses from California sources and sent out of state for recycling or other method of disposition.

(4) Other information deemed necessary by the department that is reasonably related to compliance with this chapter and that can be reasonably compiled.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987, 42991, Public Resources Code.*

Section. 18966. Used Mattress Renovator Annual Report.

(a) An annual report shall be submitted to the department and the mattress recycling organization by a person that is engaged in business as a used mattress renovator. The annual report may be submitted electronically according to instructions provided by the department. A hard copy, signed by a corporate officer of a mattress renovator shall be submitted to the department upon request.

(b) The annual report shall contain the following:

(1) Contact information. Identify the corporate officer of the mattress renovator responsible for annual report submittal.

(2) Quantitative information on the number of used mattresses received from California sources and out of state sources and renovated in the state during the preceding calendar year. Conversion factor(s), if used, shall also be provided.

(3) Quantitative information on the number of used mattresses generated in California and sent out of state for renovation or other method of disposition.

(4) Other information deemed necessary by the department that is reasonably related to compliance with this chapter and that can be reasonably compiled.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42987, 42991, Public Resources Code.*

Section. 18967. Solid Waste Facility Annual Report.

(a) An annual report shall be submitted by a person that is engaged in business as an operator of a solid waste facility to the department and the mattress recycling organization. The annual report may be submitted electronically according to instructions provided by the department. A hard copy, signed by a designated representative of a solid waste facility shall be submitted to the department upon request.

(b) The annual report shall contain the following:

(1) Contact information. Identify the designated representative of the solid waste facility responsible for annual report submittal.

(2) The number of used mattresses disposed of at the site in the preceding calendar year and the number of mattresses the facility recycled, renovated, or sent away to be recycled or renovated in the preceding calendar year. Facility operators are required to count, track, and report on each mattress they observed during the normal operation of the facility. Facility operators are not required to do additional sorting or processing to find a mattress that was an incidental part of a load, or that could not be counted or observed upon receipt.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*
Reference: *Sections 42985, 42986, 42987, 42991, Public Resources Code.*

Section. 18968. Mattress Recycling Organization Advisory Committee Annual Report.

(a) An annual report shall be submitted by a designee of the mattress recycling organization advisory committee, established pursuant to subsection (3) of subdivision (a) of Section 42987 of the Public Resources Code to the mattress recycling organization no later than 30 days prior to when the annual report is due to the department. The annual report may be submitted electronically according to instructions provided by the department. A hard copy, signed by a designated representative of the advisory committee shall be submitted to the mattress recycling organization.

(b) The annual report shall contain the following:

(1) Contact information. Identify the designated representative of the advisory committee responsible for annual report submittal and each member of the advisory committee, including member name and company/affiliation.

(2) A summary of the consultative process between the advisory committee and the mattress recycling organization relating to the ongoing implementation of the plan, as well as any other information deemed pertinent by the advisory committee to maximize the recovery and recycling of used mattresses in the state, per subdivision (k) of Section 42990.1 the Public Resources Code.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*
Reference: *Sections 42985, 42986, 42987, 42990.1, Public Resources Code.*

Section. 18969. Records.

Each mattress recycling organization, manufacturer, renovator, retailer, recycler, and distributor required to comply with Chapter 21 (commencing with Section 42985), Part 3, Division 30 of the Public Resources Code shall:

(a) Maintain records to support the requirements in this Article.

(1) Mattress recycling organizations shall maintain records to support Section 18962.

(2) Retailers, renovators, recyclers and distributors shall provide access to existing records on all mattresses sold or offered for sale in the state including:

(A) The manufacturer of the mattress.

(B) The date(s) the retailer purchased the mattress from the manufacturer.

(C) The date(s) the retailer sold the mattress.

(D) Certification letter(s) from the department, if provided by a manufacturer, to

demonstrate that the mattress from the manufacturer is or was subject to a department-approved mattress recycling plan. A retailer shall provide access to a certification letter only if it is being used as proof of compliance, pursuant to subdivision (b) of Section 42993 of the Public Resources Code that a manufacturer not listed on the department's internet website is in compliance and may sell or offer for sale mattresses in California.

(b) Provide the department with reasonable and timely access, as determined by the department, to its facilities, operations, and any relevant records necessary to determine compliance with this Article, upon request.

(1) Manufacturers, renovators, retailers, distributors, and recyclers will maintain and provide access to records required by this Article for 3 years.

(2) Mattress recycling organizations will maintain and provide access to records required by this Article for 3 years after submission of the annual report which relies upon those records.

(c) The department may take enforcement action against any mattress recycling organization, manufacturer, renovator, retailer, recycler, or distributor who fails to provide the department with access pursuant to this Section and subdivision (c) of Section 42993.3 of the Public Resources Code.

(d) In addition to the provisions in subdivision (c) of Section 42987.3 of the Public Resources Code, records supplied to the department pursuant to this Article that are, at the time of submission, claimed to be proprietary, confidential, or trade secret shall be subject to the provisions in Title 14, California Code of Regulations, Division 7, Chapter 1, Article 4 (commencing with Section 17041).

Authority cited: *Sections 40401 and 40502, Public Resources Code and Section 6253, Government Code.*

Reference: *Sections 42985, 42986, 42987. 42987.1, 42987.2, 42987.3, 42987.4, 42987.5, 42988, 42988.1, 42988.2, 42990, 42990.1, 42990.2, 42991, 42993.2, 42993.3, Public Resources Code.*

Section. 18970. Criteria to Impose a Civil Penalty.

In assessing or reviewing the amount of civil penalty imposed for a violation of this Article, the department or the court shall consider the totality of the circumstances, which may include, but is not limited to, the following:

(a) The nature, circumstances, extent, and gravity of the violation(s).

(b) The number and severity of the violation(s).

(c) Evidence that the violation was intentional, knowing, or negligent.

(d) The size of the violator.

- (e) History of violation(s) of the same or similar nature.
- (f) The willfulness of the violator's misconduct.
- (g) Whether the violator took good faith measures to comply with this chapter and the period of time over which these measures were taken.
- (h) Evidence of any financial gain resulting from the violation(s).
- (i) The economic effect of the penalty on the violator.
- (j) The deterrent effect that the imposition of the penalty would have on both the violator and the regulated community.
- (k) Any other factor that justice may require.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: *Sections 42985, 42986, 42993, 42993.1, 42993.2, 42993.3, Public Resources Code.*

Section 18971. Procedure for Imposing Civil Penalties

(a) Civil penalties may be administratively imposed in accordance with the procedures outlined in the Administrative Procedure Act at Article 10 of Chapter 4.5 (commencing with Section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The accusation or complaint and all accompanying documents may be served on the respondent by the following means:

(1) Personal service.

(2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure.

(3) Certified Mail: For respondents who have submitted a mattress recycling plan, certified mail or registered mail if the letter containing the accusation or complaint and accompanying material is mailed, addressed to the respondent at the latest facility or mailing address(es) on file with the department. Proof of service of the accusation or complaint shall be the certified mail receipts or registered mail receipts proving the accusation or complaint and accompanying materials were sent to respondent by certified mail or registered mail. For respondents who have not submitted or are not required to submit a mattress recycling plan to the department, certified mail or registered mail pursuant to the procedures indicated in the Administrative Procedure Act at subdivision (c) of Section 11505 of the Government Code applies.

(c) Civil penalties may be imposed pursuant to subdivision (a) of Section 42993.1 of the Public Resources Code.

Authority cited: *Sections 40401 and 40502, Public Resources Code.*

Reference: Sections 42985, 42986, 42993, 42993.1, 42993.2, 42993.3, *Public Resources Code* and Section 11500, *Government Code*.

Chapter 12: Short-lived Climate Pollutants

SubChapter Ghost Header for Outline ADA Compliance

General Provisions

Section 18981. 1. Scope of Chapter.

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 40002, 42652.5, 42654; and Health and Safety Code Section 39730.6.

Section 18981. 2. Implementation Requirement on Jurisdictions.

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

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

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

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

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

(d) Nothing in this chapter authorizes a jurisdiction to delegate its authority to impose civil penalties, or to maintain an action to impose civil penalties, to a private entity.

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

(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.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 42652.5, 42654; and Health and Safety Code Section 39730.6.

Article 1. Definitions

Section 18982. Definitions.

(a) Except as otherwise provided, the following definitions shall govern the provisions of this chapter:

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

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

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

(3.5) "Biomass conversion" has the same meaning as in Public Resources Code, Section 40106.

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

(5) "Blue container" means a container where either:

(A) The lid of the container is blue in color.

(B) The body of the container is blue in color and the lid is either blue, gray, or black in color. Hardware such as hinges and wheels on a blue container may be any color.

(5.5) "Brown container" means a container where either:

(A) The lid of the container is brown in color.

(B) The body of the container is brown in color and the lid is either brown, gray, or black in color. Hardware such as hinges and wheels on a brown container may be any color.

(6) "Commercial business" means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling.

(A) A multifamily residential dwelling that consists of fewer than five units is not a commercial business for the purposes of this chapter.

(7) “Commercial edible food generator” includes a Tier One or a Tier Two commercial edible food generator as defined in Subdivisions (a)(73) and (a)(74) of this section. For the purposes of this chapter, food recovery organizations and food recovery services are not commercial edible food generators.

(8) “Community composting” means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in Section 17855(a)(4).

(9) “Compliance review” means a review of records by a jurisdiction or the Department to determine compliance with subscribing to an organic waste collection service as required by this chapter.

(10) “Compost” has the same meaning as in Section 17896.2(a)(4).

(11) “Compostable material” has the same meaning as in Section 17852(a)(11).

(12) “Compostable material handling operation” or “facility” has the same meaning as in Section 17852(a)(12).

(13) “Consumer” has the same meaning as in Section 113757 of the Health and Safety Code.

(14) “Container contamination” or “contaminated container” means a container, regardless of color, that contains prohibited container contaminants as defined in Subdivision (a)(55).

(14.5) “Designated source separated organic waste facility” means a solid waste facility that accepts a source separated organic waste collection stream as defined in Section 17402(a)(26.6) and complies with one of the following:

(A) The facility is a “transfer/processor,” as defined in Section 18815.2(a)(62), that is in compliance with the reporting requirements of Section 18815.5(d), and meets or exceeds an annual average source separated organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024 and 75 percent on and after January 1, 2025 as calculated pursuant to Section 18815.5(f) for organic waste received from the source separated organic waste collection stream.

1. If a transfer/processor has an annual average source separated organic content recovery rate lower than the rate required in paragraph (A) of this section for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated source separated organic waste facility.”

(B) The facility is a “composting operation” or “composting facility” as defined in Section 18815.2(a)(13) that pursuant to the reports submitted under Section 18815.7 demonstrates that the percent of the material removed for landfill disposal that is organic waste is less than the percent specified in Section 17409.5.8(c)(2) or 17409.5.8(c)(3), whichever is applicable, and, if applicable, complies with the digestate handling requirements specified in Section 17896.57.

1. If the percent of the material removed for landfill disposal that is organic waste is more than the percent specified in Section 17409.5.8(c)(2) or 17409.5.8(c)(3) for two (2) consecutive reporting periods, or three (3) reporting periods within three (3) years, the facility shall not qualify as a “Designated source separated organic waste facility.”

(15) “Designee” means an entity that a jurisdiction contracts with or otherwise arranges to carry out any responsibilities of this chapter, as authorized in Section 18981. 2 of this chapter. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.

(16) “Diesel gallon equivalent” means the amount of renewable gas transportation fuel that has the equivalent energy content of one gallon of conventional diesel.

(16.5) “Digestate” means the solid and/or liquid material remaining after organic material has been processed in an in-vessel digester.

(17) “Direct service provider” means a person, company, agency, district, or other entity that provides a service or services to a jurisdiction pursuant to a contract or other written agreement.

(18) “Edible food” means food intended for human consumption.

(A) For the purposes of this chapter, “edible food” is not solid waste if it is recovered and not discarded.

(B) Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.

(19) “Enforcement action” means an action of a jurisdiction or the Department to ensure compliance with this chapter, including, but not limited to, issuing notices of violation, accusations, or other remedies.

(20) “Facility that recovers source separated organic waste” means a facility that handles source separated organic waste separately from any other wastes as required in Section 17409.5.6.

(21) “Food” has the same meaning as in Section 113781 of the Health and Safety Code.

(22) “Food distributor” means a company that distributes food to entities including, but not limited to, supermarkets and grocery stores.

(23) "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.

(24) "Food recovery" means actions to collect and distribute food for human consumption which otherwise would be disposed.

(25) "Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities including, but not limited to:

(A) A food bank as defined in Section 113783 of the Health and Safety Code;

(B) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

(C) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

(26) "Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery.

(27) "Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations.

(27.5) "Fluorinated greenhouse gas" or "fluorinated GHG" means sulfur hexafluoride (SF₆), nitrogen trifluoride (NF₃), and any fluorocarbon except for controlled substances as defined at 40 CFR Part 82, Subpart A, (May 1995), which is hereby incorporated by reference, and substances with vapor pressures of less than 1 mm of Hg absolute at 25 °C. With these exceptions, "fluorinated GHG" includes any hydrofluorocarbon, any perfluorocarbon, any fully fluorinated linear, branched or cyclic alkane, ether, tertiary amine or aminoether, any perfluoropolyether, and any hydrofluoropolyether.

(27.6) "Global warming potential" or "GWP" means the ratio of the time-integrated radiative forcing from the instantaneous release of one kilogram of a trace substance relative to that of one kilogram of a reference gas (i.e., CO₂). The GWP values are as specified in the Table A-1 to Subpart A of Title 40 Code of Federal Regulations Part 98 as published in the CFR on 12/11/2014, which is hereby incorporated by reference.

(28) "Gray container" means a container where either:

(A) The lid of the container is gray or black in color.

(B) The body of the container is entirely gray or black in color and the lid is gray or black in color. Hardware such as hinges and wheels on a gray container may be any color.

(28.5) “Gray container collection stream” has the same meaning as defined in Section 17402.

(29) “Green container” means a container where either:

(A) The lid of the container is green in color.

(B) The body of the container is green in color and the lid is green, gray, or black in color. Hardware such as hinges and wheels on a green container may be any color.

(29.5) “Greenhouse gas” means carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons (HFC), perfluorocarbons (PFC), and other fluorinated greenhouse gases as defined in this section.

(29.6) “Greenhouse gas emission reduction” or “greenhouse gas reduction” means a calculated decrease in greenhouse gas emissions relative to a project baseline over a specified period of time.

(30) “Grocery store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments.

(30.5) “Hazardous wood waste” means wood that falls within the definition of “Treated wood” or “Treated wood waste” in Section 67386.4 of Title 22 of the California Code of Regulations.

(31) “Hauler” has the same meaning as in Section 18815.2(a)(32).

(31.5) “Hauler route” means the designated itinerary or sequence of stops for each segment of the jurisdiction’s collection service area.

(32) “Health facility” has the same meaning as in Section 1250 of the Health and Safety Code.

(33) “High diversion organic waste processing facility” means a facility that is in compliance with the reporting requirements of Section 18815.5(d) and meets or exceeds an annual average mixed waste organic content recovery rate of 50 percent between January 1, 2022 and December 31, 2024, and 75 percent after January 1, 2025 as calculated pursuant to Section 18815.5(e) for organic waste received from the “Mixed Waste Organic Collection Stream” as defined in Section 17402-(a)(11.5).

(34) “Hotel” has the same meaning as in Section 17210 of the Business and Professions code.

(35) “Inspection” means a site visit where a jurisdiction or the Department reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of

organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter.

(36) “Jurisdiction” means a city, county, a city and county, or a special district that provides solid waste collection services. A city, county, a city and county, or a special district may utilize a Joint Powers Authority to comply with the requirements of this chapter, except that the individual city, county, city and county, or special district shall remain ultimately responsible for compliance.

(37) “Jurisdiction of residence” means the jurisdiction where a generator who is a self-hauler generated organic waste.

(38) “Large event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event.

(39) “Large venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For the purposes of this chapter, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For the purposes of this chapter, a site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue.

(39.5) “Lifecycle greenhouse gas emissions” or “Lifecycle GHG emissions” means the aggregate quantity of greenhouse gas emissions (including direct and indirect emissions), related to the full lifecycle of the technology or process that an applicant wishes to have assessed as a possible means to reduce landfill disposal of organic waste. The lifecycle analysis of emissions includes all stages of organic waste processing and distribution, including collection from a recovery location, waste processing, delivery, use of any finished material by the ultimate consumer, ultimate use of any processing materials. The mass values for all greenhouse gases shall be adjusted to account for their relative global warming potential.

(40) “Local education agency” means a school district, charter school, or county office of education that is not subject to the control of city or county regulations related to solid waste.

(41) “Non-compostable paper” includes, but is not limited, to paper that is coated in a plastic material that will not breakdown in the composting process.

(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, and state agencies.

(43) "Non-organic recyclables" means non-putrescible and non-hazardous recyclable wastes, including, but not limited to, bottles, cans, metals, plastics, and glass.

(44) "Notice and Order to Correct (NOTC)" means a notice that a violation has occurred and that failure to correct the violation may result in a penalty.

(45) "Notice of Violation (NOV)" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties.

(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.

(47) "Organic waste disposal reduction target" is the statewide target to reduce the disposal of organic waste by 50 percent by 2020 and 75 percent by 2025, based on the 2014 organic waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code.

(48) "Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste.

(49) "Organic waste recovery activities" or "recovery" means any activity or process described in Section 18983.1(b).

(50) "Organic Waste Recovery Noncompliance Inventory" means a list of entities that have uncorrected violations of the standards contained in this chapter.

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

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

(A) Paper products.

(B) Printing and writing papers.

(52.5) "Performance-based source separated collection service" means a solid waste collection service that meets the requirements of Section 18998.1(a).

(-52.6) "Permanent" means, in the context of the determination of processes or technologies that constitute a reduction in landfill disposal, that greenhouse gas emissions reductions are not reversible, or when these emissions reductions may be

reversible, that mechanisms are in place to replace any reversed greenhouse gas emissions reductions to ensure that all reductions endure for at least 100 years.

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

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

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

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

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

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

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

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

(56.5) "Project baseline" means, in the context of "greenhouse gas emission reduction" or "greenhouse gas reduction," and in the context of an application submitted pursuant to Section 18983.2, a conservative estimate of the business-as-usual greenhouse gas emissions that would have occurred if the organic waste proposed for recovery was disposed in an activity that constitutes landfill disposal. This estimate may include greenhouse gas emissions associated with the production and use of products replaced by a Section 18983.2 technology or process.

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

(58) “Publicly owned treatment works” or “POTW” has the same meaning as in Section 403.3(r) of Title 40 of the Code of Federal Regulations.

(59) “Recovered organic waste product procurement target” means the amount of organic waste in the form of a recovered organic waste product which a jurisdiction is required to procure annually.

(60) “Recovered organic waste products” means products made from California, landfill-diverted recovered organic waste processed at a permitted or otherwise authorized operation or facility.

(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.

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

(62) “Renewable gas” means gas derived from organic waste that has been diverted from a landfill and processed at an in-vessel digestion facility that is permitted or otherwise authorized by Title 14 to recover organic waste.

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

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

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

(66) “Self-hauler” means a person who hauls solid waste, organic waste or recovered material he or she has generated to another person. Self-hauler also includes a person who back-hauls waste.

(A) “Back-haul” means generating and transporting organic waste to a destination owned and operated by the generator using the generator’s own employees and equipment.

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

(68) “Share table” has the same meaning as in Section 114079 of the Health and Safety Code.

(68.5) "Source sector" has the same meaning as in Section 18815.2(a)(58).

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

(70) "Source separated organic waste collection stream" has the same meaning as defined in Section 17402(a)(26.6).

(70.5) "Special district" has the same meaning as Section 41821.2 of the Public Resources Code.

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

(72) "The 2014 organic waste disposal baseline" means the total tons of organic waste disposed statewide in 2014 as calculated by the Department.

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

(A) Supermarket.

(B) Grocery store with a total facility size equal to or greater than 10,000 square feet.

(C) Food service provider.

(D) Food distributor.

(E) Wholesale food vendor.

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

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

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

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

(D) Large venue.

(E) Large event.

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

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

(75) “Uncontainerized green waste and yard waste collection service” or “uncontainerized service” means a collection service that collects green waste and yard waste that is placed in a pile or bagged for collection on the street in front of a generator’s house or place of business for collection and transport to a facility that recovers source separated organic waste.

(76) “Wholesale food vendor” means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 42652.5, 42654; and Health and Safety Code Sections 39730.6 and 39730.8.

Article 2. Landfill Disposal and Reductions in Landfill Disposal

Section 18983.1 Landfill Disposal and Recovery.

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

(1) Final deposition at a landfill.

(2) Use as Alternative Daily Cover or Alternative Intermediate Cover at a landfill.

(A) The use of non-organic material as landfill cover shall not constitute landfill disposal of organic waste.

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

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

(1) An operation that qualifies as a “Recycling Center” as set forth in Section 17402.5(d) or is listed in Section 17402.5(c) of this division.

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

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

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

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

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

(B) The use shall be:

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

2. Restricted to quantities of solid wastes no more than necessary to meet the minimum requirements of Subdivision (b)(5)(B)1.

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

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

(6) Land application, of compostable material consistent with Section 17852(a)(24.5) of this division, is subject to the following conditions on particular types of compostable material used for land application:

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

(B) Biosolids used for land application shall:

1. Have undergone anaerobic digestion or composting, as defined in Part 503, Title 40 of the Code of Federal Regulations, Appendix B, sections (A)(1) and (A)(4), as amended August 4, 1999, which is hereby incorporated by reference; and

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

(C) Digestate used for land application shall:

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

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

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

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

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

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

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

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

Reference: Public Resources Code Sections 40106, 40116, 40116.1, 40192 and 42652.5; and Health and Safety Code Sections 39730.6 and 39730.8.

Section 18983.2 Determination of Technologies That Constitute a Reduction in Landfill Disposal.

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

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

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

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

(C) For each process or technology noted in Section 18983.2(a)(1)(B), the mass in short tons of organic waste, differentiated by type (i.e., food, leaves and grass, woody material (not including lumber or agricultural crop residues), lumber, agricultural crop residues, manure, sewage sludge (not including digestate), digestate, organic textiles and carpet, paper products, and remainder/composite organic), that will be processed each year.

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

(E) For each of the processes or technologies described pursuant to Section 18983.2(a)(1)(B), each calculation, assumption, and emission factor used by the applicant to calculate the greenhouse gas emissions as well as the expected permanent greenhouse gas emissions reduction of the proposed operation, including the estimated greenhouse gas emissions and permanent greenhouse gas emissions reductions of any end uses or landfill disposal of material described in Section 18983.2(a)(1)(D). All calculations must be clearly laid out such that the Department is able to follow and understand the calculation of greenhouse gas emissions reduction potential.

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

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

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

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

(2) The Department shall consult with the Executive Office of the California Air Resources Board (CARB) to evaluate if the information submitted by the applicant is sufficient to estimate the greenhouse gas emissions and permanent lifecycle GHG emissions reduction of the proposed recovery process or operation. Within 30 days of receiving the application, the Department shall inform the applicant if they have not submitted sufficient information to estimate the greenhouse gas emissions and permanent lifecycle greenhouse gas emissions reductions associated with the proposed recovery process or operation. For further consideration of any application submitted without sufficient information, the applicant is required to submit the requested information. The Department shall provide a response to the applicant within 180 days of receiving all necessary information as to whether or not the proposed recovery process or operation results in a permanent reduction in greenhouse gas emissions, and therefore counts as a reduction in landfill disposal.

(3) To determine if the proposed operation counts as a permanent reduction in landfill disposal, the Department, in consultation with CARB's Executive Office, shall compare the permanent lifecycle GHG emissions reduction of metric tons of carbon dioxide equivalent (MTCO_{2e}) per short ton organic waste reduced by the process or technology, with the emissions reduction from composting organic waste (0.30 MTCO_{2e}/short ton organic waste). The Department shall only deem a proposed operation to constitute a

reduction in landfill disposal if the process or technology results in a permanent reduction in lifecycle greenhouse gas emissions equal to or greater than the 0.30 MTCO₂e/short ton of organic waste.

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

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 40192 and 42652.5; and Health and Safety Code Section 39730.6.

Article 3. Organic Waste Collection Services

Section 18984. Combined Organic Waste Collection Services.

A jurisdiction may provide any combination of organic waste collection services specified in Sections 18984.1, 18984.2, and 18984.3 to generators subject to its authority.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.1. Three-container Organic Waste Collection Services.

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

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

(A) Compostable plastics may be placed in the green container if the material meets the ASTM D6400 sections 5.1 through 6.4.2 standard for compostability as published May, 2019, which is hereby incorporated by reference, and the contents of the green containers are transported to compostable material handling operations or facilities or in-vessel digestion operations or facilities that have provided written notification annually to the jurisdiction stating that the facility can process and recover that material.

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

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

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

(5) Materials specified in this paragraph shall be subject to the following restrictions:

(A) Carpets, non-compostable paper, and hazardous wood waste shall not be collected in the green container.

(B) Hazardous wood waste shall not be collected in the blue container or gray container.

(6) A jurisdiction may require additional segregation of source separated organic waste by providing additional containers or additional sections of split containers in addition to the green container and blue container. The following types of additional containers can be provided pursuant to this paragraph.

(A) A brown container, or a brown section of a split container that is limited to the collection of separated food waste.

(B) If a jurisdiction segregates the contents of a blue container into an additional container or additional section of a split container in order to separate organic wastes specified in Subdivision (a)(2) from non-organic recyclables, the jurisdiction may use a darker shade of blue for the container or section of the container designated for the collection of organic waste, and a lighter shade of blue, or any color not already designated for other materials specified in this section, for the collection of non-organic recyclables.

(C) Additional containers, or sections of split containers provided for collection of additionally separated organic waste not specified in this section, may be provided in any color provided that the colors do not conflict with the container color requirements of this section.

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

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

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

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

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

(d) A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that allowing the use of bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction annually provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste.

(e) Nothing in this section is intended to prohibit a jurisdiction from providing an uncontainerized green waste and yard waste collection service to its generators, provided that the three container service complies with the following:

(1) If an uncontainerized green waste and yard waste collection service is provided intermittently or on a seasonal basis, a green container is still provided for collection of organic waste as required in Subdivision (a)(1) whenever the uncontainerized service is not provided.

(2) If an uncontainerized green waste and yard waste collection service is provided year-round, generators receiving that service must be provided a collection service for the collection of other organic waste in a manner that complies with this section.

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.2. Two-container Organic Waste Collection Services.

(a) A jurisdiction may comply with the requirements of this article by implementing a two-container organic waste collection service as provided below:

(1) A two container system where a green container and a gray container are provided and:

(A) The green container is limited to the collection of organic waste only. The contents of the green container shall be transported to a facility that specifically recovers source separated organic waste.

(B) The gray container allows for intentional comingling of all collected wastes, including organic waste that is not designated for collection in the green container, provided that the contents of the gray container are transported to a facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3.

(C) Compostable plastics may be placed in the green container if the material meets the ASTM D6400 sections 5.1 through 6.4.2 standard for compostability as published May, 2019, which is hereby incorporated by reference, and contents of the green containers are transported to compostable material handling operations or facilities or in-vessel digestion operations or facilities that have provided written notification annually to the jurisdiction stating that the facility can process and recover that material; or

(2) A two container system where a blue container and a gray container are provided and:

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

(B) The gray container allows for intentional comingling of all collected wastes, including organic waste that is not designated for collection in the blue container, provided that the contents of the gray container are transported to a facility that meets or exceeds the organic waste content recovery requirements specified in Section 18984.3.

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

(c) Materials specified in this Subdivision shall be subject to the following restrictions:

(1) Carpets, non-compostable paper, and hazardous wood waste shall not be collected in the green container.

(2) Hazardous wood waste shall not be collected in the blue or gray container.

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

(1) If a jurisdiction segregates the contents of a blue container into an additional container or additional section of a split container in order to separate organic wastes specified in Subdivision (a)(2) from non-organic recyclables, the jurisdiction may use a darker shade of blue for the container or section of the container designated for the collection of organic waste, and a lighter shade of blue, or any color not already designated for other materials specified in this section, for the collection of non-organic recyclables.

(e) A jurisdiction may allow organic waste to be collected in plastic bags and placed in the green container provided that allowing the use of bags does not inhibit the ability of the jurisdiction to comply with the requirements of Section 18984.5, and the facilities that recover source separated organic waste for the jurisdiction annually provide written notice to the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste.

(f) Nothing in this section is intended to prohibit a jurisdiction from providing an uncontainerized green waste and yard waste collection service to its generators, provided that the two container service complies with the following:

(1) If an uncontainerized green waste and yard waste collection service is provided intermittently or on a seasonal basis, a container is still provided for collection of organic waste as required in Subdivision (a) whenever the uncontainerized service is not provided.

(2) If an uncontainerized green waste and yard waste collection service is provided year-round, generators receiving that service must be provided a collection service for the collection of other organic waste in a manner that complies with this section.

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5; and Health and Safety Code Section 39730.6.

Section 18984.3. Unsegregated Single-Container Collection Services.

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

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

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

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

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

(f) Nothing in this section is intended to prohibit a jurisdiction from providing an uncontainerized green waste and yard waste collection service to its generators, provided that the service complies with the following:

(1) Generators receiving that service must be provided a collection service for the collection of other organic waste in a manner that complies with this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

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

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

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

(2) The geographical area for each collection method.

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

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

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

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

(4) If the jurisdiction allows compostable plastics to be placed in the green container pursuant to Section 18984.1 or 18984.2, a copy of written notification received from each facility serving the jurisdiction indicating that the facility recovers that material.

(5) If the jurisdiction allows organic waste to be collected in plastic bags pursuant to Section 18984.1 or 18984.2, a copy of written notification received from each facility serving the jurisdiction indicating that the facility can process and remove plastic bags when it recovers source separated organic waste.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.5. Container Contamination Minimization.

(a) A generator shall not place prohibited container contaminants in a collection container. A jurisdiction shall monitor the containers provided to generators using a three-container or two-container organic waste collection service pursuant to Section 18984.1 or 18984.2 to minimize prohibited container contaminants in a manner that complies with either the provisions of Subdivision (b) or the provisions of Subdivision (c) of this section.

(1) A jurisdiction that implements a performance-based source separated collection service pursuant to Section 18998.1 shall monitor containers through waste evaluations as specified in the provisions of Subdivision (c).

(b) A jurisdiction may meet its container contamination minimization requirements by conducting a route review for prohibited container contaminants on containers in a manner that results in 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) Upon finding prohibited container contaminants in a container, the jurisdiction, shall notify the generator of the violation.

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

(B) The notice may be left on the generator's container, gate, or door at the time the violation occurs, and/or be mailed, e-mailed, or electronically messaged to the generator.

(2) If a jurisdiction observes prohibited container contaminants in a generator's collection container(s), it may dispose of the container's contents.

(3) Notwithstanding Section 18995.1(a)(5), this chapter does not require a jurisdiction to impose administrative civil penalties on generators in violation of the prohibited container contaminants requirement in Subdivision (a), above.

(c) A jurisdiction may meet its container contamination minimization requirements by conducting waste evaluations that meet the following standards:

(1) The jurisdiction shall conduct waste evaluations for prohibited container contaminants in the following manner:

(A) A jurisdiction that implements a three-container or two-container organic waste collection service pursuant to Sections 18984.1 or 18984.2 shall conduct waste evaluations at least twice per year and the studies shall occur in two distinct seasons of the year.

(B) A jurisdiction that implements a performance-based source separated collection service pursuant to Section 18998.1 shall conduct waste evaluations at least twice per year for the blue and green containers and once per quarter for the gray container.

(C) The waste evaluations shall include samples of each container type served by the jurisdiction.

(D) The waste evaluations shall include samples taken from different areas in the jurisdiction that are representative of the jurisdiction's waste stream.

(E) The waste evaluations shall include at least the following minimum number of samples from all the hauler routes included in the studies:

1. For routes with less than 1,500 generators the study shall include a minimum of 25 samples.
2. For routes with 1,500-3,999 generators the study shall include a minimum of 30 samples.
3. For routes with 4,000- 6,999 generators the study shall include a minimum of 35 samples.
4. For routes with 7,000 or more generators the study shall include a minimum of 40 samples.

(F) All of the material collected for sampling must be transported to a sorting area at a permitted solid waste facility where the presence of prohibited container contaminants for each container type is measured to determine the ratio of prohibited container contaminants present in each container type by weight. To determine the ratio of prohibited container contaminants the jurisdiction shall use the following protocol:

1. Take one sample of at least 200 pounds from the material collected from each container stream for sampling (e.g. a 200 pound sample taken from the contents of all of the green containers collected for sampling).

2. The 200 pound sample shall be randomly selected from different areas of the pile of collected material for that container type.

3. For each 200 pound sample, remove any prohibited container contaminants and determine the weight of prohibited container contaminants.

4. Then determine the ratio of prohibited container contaminants in the sample by dividing the total weight of prohibited container contaminants by the total weight of the sample.

(2) If the sampled weight of prohibited container contaminants exceeds 25 percent of the measured sample for any container type, the jurisdiction shall perform one of the following:

(A) Notify all generators on the sampled hauler routes of their requirement to properly separate materials into the appropriate containers. The jurisdiction may provide this information by placing a notice on the generator's container, gate, or door, and/or by mail, e-mail, or electronic message to the generator.

(B) Perform a targeted route review of containers on the routes sampled for waste evaluations to determine the sources of contamination and notify those generators of their obligation to properly separate materials. The jurisdiction may provide this information to these generators by placing a notice on the generator's container gate, or door, and/or by mail, e-mail, or electronic message to the applicable generators.

(d) A jurisdiction that implements a performance-based source separated collection service pursuant to Section 18998.1 shall notify the department within 30 days of finding prohibited container contaminants in the gray container collection stream that exceed 25 percent of the measured sample by weight in each of two consecutive waste evaluations performed on gray containers pursuant to the requirements of Subdivision (c), above.

(1) A jurisdiction that implements a performance-based source separated collection service pursuant to Section 18998.1 that exceeds an annual average of 25 percent by weight of prohibited container contaminants in the gray container collection shall be subject to the process described in Section 18998.1(c).

(e) A jurisdiction that implements a performance-based source separated collection service pursuant to Section 18998.1 shall, upon request, allow a representative of the department to oversee its next scheduled quarterly sampling of the gray container.

(f) For the purposes of demonstrating compliance with 18998.1, 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.

(g) Nothing in this section limits a jurisdiction from adopting contamination standards, fees, sampling methodologies, or noticing protocols that are more stringent or rigorous than the requirements of this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.6. Recordkeeping Requirements for Container Contamination Minimization.

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

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

(2) Documentation of route reviews conducted pursuant to Section 18984.5(b), as described in Section 18995.1 of this chapter, if applicable.

(3) If applicable, documentation of waste evaluations performed pursuant to Section 18984.5(c), including information on targeted route reviews conducted as a result of the studies. The documentation shall at a minimum include dates of the studies, the location of the solid waste facility where the study was performed, routes, source sector (e.g. commercial or residential), number of samples, weights and ratio of prohibited container contaminants and total sample size.

(4) Copies of all notices issued to generators with prohibited container contaminants.

(5) Documentation of the number of containers where the contents were disposed due to observation of prohibited container contaminants.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.7. Container Color Requirements.

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

(b) Notwithstanding Subdivision (a), a jurisdiction is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the color requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.8. Container Labeling Requirements.

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

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

(1) Placing labels on containers that include language or graphic images or both that indicate the primary materials accepted and the primary materials prohibited in that container; or

(2) Providing containers with imprinted text or graphic images that indicate the primary materials accepted and the primary materials prohibited in that container.

(c) Labels shall clearly indicate primary items that are prohibited container contaminants for each container.

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.9 Organic Waste Generator Requirements.

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

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

(2) Self-hauling organic waste in a manner that complies with the requirements of Article 7 of this chapter.

(b) Generators that are commercial businesses, except for multifamily residential dwellings, shall also:

(1) Provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are provided for customers, except for restrooms. The containers provided by the business shall have either:

(A) A body or lid that conforms with the container colors provided through the organic waste collection service provided by their jurisdiction; or

(B) Container labels that comply with the requirements of Section 18984.8.

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

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

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

(d) A commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of this article prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(e) If a business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.10. Commercial Business Owner Responsibilities.

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

(b) Commercial businesses shall annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of organic waste.

(1) Commercial businesses shall provide information to new tenants before or within 14 days of occupation of the premises.

(c) Commercial businesses shall provide or arrange for access to their properties during all inspections conducted pursuant to Article 14 of this chapter (commencing with Section 18995.1).

(1) This subdivision is not intended to permit an employee or agent of the Department, or a jurisdiction, to enter the interior of a private residential property.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.11. Waivers Granted by a Jurisdiction.

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

(1) De Minimis Waivers.

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

1. The commercial business' total solid waste collection service is two cubic yards or more per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 20 gallons per week per applicable container of the business' total waste.

2. The commercial business' total solid waste collection service is less than two cubic yards per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 10 gallons per week per applicable container of the business' total waste.

(B) A jurisdiction shall, consistent with Section 18995.1, verify that the commercial business' organic waste generation meets the waiver thresholds set forth in this subdivision.

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

(2) Physical Space Waivers.

(A) A jurisdiction may waive a commercial business' or property owner's obligation to comply with some or all of the organic waste collection service requirements of this article if the commercial business or property owner provides documentation, or the jurisdiction has evidence from its staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lack adequate space for any of the organic waste container configurations allowed under 18984.1(a) or 18984.2.

(3) Collection Frequency Waivers.

(A) A jurisdiction may allow the owner or tenant of any residence, premises, business establishment or industry that subscribes to a three-container or two-container organic waste collection service to arrange for the collection of solid waste in a blue container, a gray container, or both once every fourteen days, provided that:

1. The jurisdiction, or its authorized hauler, demonstrates to the enforcement agency, as defined in Public Resources Code 40130 that less frequent collection than required by Section 17331 of Title 14 of the California Code of Regulations will not cause receiving solid waste facilities, operations, or both to be in violation of applicable state minimum standards described in Subchapter 4 of Chapter 3 of Subdivision 1 of Title 27 or Title 14, Sections 17200 et seq.

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

(c) Notwithstanding Section 18981.2, the authority to issue a waiver authorized by this section cannot be delegated to a private entity.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.12. Waivers and Exemptions Granted by the Department.

(a) Low population waivers.

(1) A jurisdiction may apply to the Department for a waiver for the jurisdiction and some or all its generators from some or all of the requirements of this article if the following apply:

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

(B) The jurisdiction has a total population of less than 7,500 people.

(2) A jurisdiction may apply to the Department for a waiver from some or all of the requirements of this article for census tracts that have a population density of less than 75 people per square mile that are served by the jurisdiction and are located in unincorporated portions of a county.

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

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

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

(B) The requested length of the waiver.

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

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

(3) A jurisdiction may apply to renew a waiver issued pursuant to Subdivision (a) at any time up to 180 days prior to the expiration of an existing waiver.

(c) Rural Exemptions.

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

(2) An exemption implemented pursuant to this subdivision shall be valid until December 31, 2026 or until five years after the Department makes a determination pursuant to Section 42649.82 (a)(2)(D) that the statewide disposal of organic waste has not been reduced to 50 percent of the level of disposal during the 2014 calendar year, whichever is later.

(d) Elevation Waivers.

(1) 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.

(2) A jurisdiction may apply to the Department for a waiver for some or all of its generators from the requirement to separate and recover food waste and food-soiled paper in census tracts located in unincorporated portions of a county that are located at or above 4,500 feet.

(3) The area of a jurisdiction that is waived pursuant to this section is not required to provide containers to generators as prescribed in Section 18984.7.

(4) Residential and commercial generators located within an area that is waived pursuant to this section may deposit food waste and food-soiled paper in a disposal container.

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

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

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

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

(7) Nothing in this subdivision waives a jurisdiction from its obligation to provide a collection service that collects and recycles the other types of organic wastes specified in Section 18984.1, 18984.2, or 18984.3 in a manner that meets the requirements of those sections.

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

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.13. Emergency Circumstances, Abatement, Quarantined Materials and Federally Regulated Waste.

(a) Emergency Processing Facility Temporary Equipment or Operational Failure Waivers.

(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 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 failure.

(2) A jurisdiction shall notify the Department in writing within 10 days of a waiver decision pursuant to Subdivision (a)(1). The notice sent to the Department shall include a description of the equipment failure or operational restriction that occurred at the facility, the period of time that the jurisdiction will allow the organic waste stream to be deposited in a landfill or landfills, and the Recycling and Disposal Reporting System Number of the facility that experienced the temporary equipment or operational failure preventing it from receiving some or all of the jurisdiction's waste.

(b) Disasters and emergency waivers.

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

(2) If a waiver or waivers have been granted pursuant to Subsection (1) the Department shall waive the organic waste collection requirements 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.

(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.

(d) A jurisdiction may dispose of specific types of organic waste that are subject to quarantine and meet the following requirements:

(1) The organic waste is generated from within the boundaries of an established interior or exterior quarantine area defined by the California Department of Food and Agriculture for that type of organic waste.

(2) The California Department of Food and Agriculture or the County Agricultural Commissioner determines that the organic waste must be disposed at a solid waste landfill and the organic waste cannot be safely recovered through any of the recovery activities identified in Article 2 of this chapter.

(3) The jurisdiction retains a copy of the California Department of Food and Agriculture approved compliance agreement for each shipment stating that the material must be transported to a solid waste landfill operating under the terms of its own compliance agreement for the pest or disease of concern.

(e) 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.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18984.14. Recordkeeping Requirements for Waivers and Exemptions.

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

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

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

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

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

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

(6) A record of the amount of sediment debris that is disposed pursuant to Section 18984.13 on an annual basis.

(7) A record of the amount of solid waste removed from homeless encampments and illegal disposal sites as part of an abatement activities if the total amount of material removed exceeds 100 tons.

(8) A copy of all compliance agreements for quarantined organic waste that is disposed, including the name of generator, date issued, location of final disposition, and the amount of organic waste that was required to be disposed at a solid waste landfill.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 4. Education and Outreach

Section 18985.1. Organic Waste Recovery Education and Outreach.

(a) Prior to February 1, 2022, and annually thereafter, a jurisdiction shall provide the following to organic waste generators that are provided an organic waste collection service pursuant to Article 3 of this chapter:

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

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

(3) Information regarding the methane reduction benefits of reducing the landfill disposal of organic waste, and the methods of organic waste recovery the organic waste collection service uses.

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

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

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

(7) If a jurisdiction allows generators subject to its authority to self-haul organic waste pursuant to Section 18988.1, information regarding self-hauling requirements shall be included in education and outreach material.

(b) A jurisdiction providing an unsegregated single container collection service to organic waste generators is not required to include the information required in Subdivision (a)(1), but shall include information indicating that organic waste is being processed at a high diversion organic waste processing facility.

(c) A jurisdiction may comply with the requirements by providing the information required by this section through print or electronic media. In addition to providing information through print and electronic media, a jurisdiction may conduct outreach through direct contact with generators through workshops, meetings, or on-site visits.

(d) Consistent with Section 18981.2, a jurisdiction may comply with the requirements of this section through use of a designee.

(e) Consistent with Section 7295 of the Government Code, jurisdictions shall translate educational 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.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18985.2. Edible Food Recovery Education and Outreach.

(a) On or before February 1, 2022 a jurisdiction shall:

(1) Develop a list of food recovery organizations identified in Section 18982(a)(25)(A)–(B) and food recovery services operating within the jurisdiction and maintain the list on the jurisdiction’s website. The list shall be updated annually. The list shall include, at a minimum, the following information about each food recovery organization and each food recovery service:

(A) Name and physical address.

(B) Contact information.

(C) Collection service area.

(D) An indication of types of food the food recovery service or organization can accept for food recovery.

(b) At least annually a jurisdiction shall:

(1) Provide commercial edible food generators with the following information:

(A) Information about the jurisdiction's edible food recovery program established pursuant to Section 18991.1.

(B) Information about the commercial edible food generator requirements specified in Article 10 of this chapter.

(C) Information about food recovery organizations and food recovery services operating within the jurisdiction, and where a list of those food recovery organizations and food recovery services can be found.

(D) Information about actions that commercial edible food generators can take to prevent the creation of food waste.

(2) The jurisdiction may provide this information by including it with regularly scheduled notices to those commercial businesses, including the notices provided pursuant to Section 18985.1.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18985.3. Recordkeeping Requirements for a Jurisdiction's Compliance with Education and Outreach Requirements.

(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Section 18995.2 of this chapter, including, but not limited to:

(1) Copies of the information provided to comply with this article, including: flyers, brochures, newsletters, invoice messaging, and website and social media postings.

(2) The date, and to whom the information was disseminated or direct contact made. If a jurisdiction provides mass distribution through mailings, or bill inserts, it shall provide the date, a copy of the information, and the type and number of accounts receiving the information.

(3) If the requirements of this article were met solely through the use of electronic media, the record shall include a copy, with dates posted, of social media posts, e-mails or other electronic messages.

(4) If a jurisdiction relies on a designee, as allowed in Section 18981.2, to comply with this section, it shall include a copy of the materials distributed by the designee.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 5. Generators of Organic Waste

Section 18986.1. Non-Local Entities Requirements.

(a) Non-local entities shall comply with the requirements of this chapter to prevent and reduce the generation of organic waste by:

(1) Subscribing to and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter; or

(2) Self-hauling organic waste in a manner that complies with the requirements of Article 7 of this chapter.

(b) Non-local entities shall provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms. The containers provided shall conform to the requirements of the containers provided through an organic waste recovery service authorized under Article 3 of this chapter.

(c) Non-local entities shall prohibit their employees from placing organic waste in a container not designated to receive organic waste.

(1) Materials specified in this paragraph shall be subject to the following restrictions:

(A) Carpets, non-compostable paper, and hazardous wood waste shall not be collected in the green container.

(B) Hazardous wood waste shall not be collected in the blue or gray container.

(d) Non-local entities shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated and of the requirement to only use those containers for organic waste.

(e) Non-local entities shall provide information to employees on methods for the prevention of organic waste generation.

(f) Nothing in this section prohibits a non-local entity from preventing waste generation, managing organic waste on site, or using a community composting site.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18986.2. Local Education Agencies Requirements.

(a) Local education agencies shall comply with the requirements of this chapter to prevent and reduce the generation of organic waste by:

(1) Subscribing and complying with the requirements of an organic waste collection service that meets the requirements of Article 3 of this chapter; or

(2) Self-hauling organic waste in a manner that complies with the requirements of Article 7 of this chapter.

(b) Local education agencies shall provide containers for the collection of organic waste and non-organic recyclables in all areas where disposal containers are located, except restrooms. The containers provided shall conform to the requirements of the containers provided through an organic waste recovery service authorized under Article 3 of this chapter.

(c) Local education agencies shall prohibit their employees from placing organic waste in a container not designated to receive organic waste.

(1) Materials specified in this paragraph shall be subject to the following restrictions:

(A) Carpets, non-compostable paper, and hazardous wood waste shall not be collected in the green container.

(B) Hazardous wood waste shall not be collected in the blue or gray container.

(d) Local education agencies shall periodically inspect organic waste containers for contamination and inform employees if containers are contaminated and of the requirement to only use those containers for organic waste.

(e) Local education agencies shall provide information to employees and students on methods for the prevention of organic waste generation.

(f) Nothing in this section prohibits a local education agency from preventing waste generation, managing organic waste on site, and/or using a community composting site.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18986.3. Waivers for Non-Local Entities and Local Education Agencies.

(a) The Department shall waive a non-local entity's or local education agency's obligation to comply with some or all of organic waste collection service requirements of

this article if the entity or agency provides documentation demonstrating that any of the following apply:

(1) The total solid waste collection service subscribed to is two cubic yards or more per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 20 gallons per week per applicable container of the non-local entity's or local education agency's total waste.

(2) The total solid waste collection service subscribed to is less than two cubic yards per week and organic waste subject to collection in a blue container or a green container as specified in Section 18984.1(a) comprises less than 10 gallons per week per applicable container of the non-local entity's or local education agency's total waste.

(3) A hauler, licensed architect, or licensed engineer has determined that there is not adequate space for separate organic waste containers.

(4) The entity is located within a jurisdiction or census tract that has been granted a waiver by the Department pursuant to Section 18984.12.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 6. Biosolids Generated at a Publicly Owned Treatment Works (POTW)

Section 18987.1. Biosolids Generation at a POTW.

(a) A POTW generating biosolids is not subject to the following:

(1) The generator requirements set forth in Section 18984.9.

(2) The organic waste recovery and measurement requirements described in Sections 17409.5.1 through 17409.5.8 of this division.

(3) The recordkeeping and reporting requirement described in Section 17414.2 of this division.

(b) Material received at a POTW that it is not allowed to accept pursuant to Section 17896.6(a)(1)(C) or (D) shall be deemed to constitute landfill disposal pursuant to Section 18983.1(a)(3).

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 7. Regulation of Haulers

Section 18988.1. Jurisdiction Approval of Haulers and Self-Haulers.

(a) A jurisdiction shall require haulers providing residential, commercial, or industrial organic waste collection services to generators within its boundaries to meet the requirements and standards of this chapter as a condition of approval of a contract, agreement, or other authorization to collect organic waste.

(1) A jurisdiction shall require haulers to identify the facilities to which they will transport organic waste as a requirement for approval.

(2) A jurisdiction shall require haulers providing an organic waste collection service to comply with the applicable requirements of Article 3 of this chapter.

(b) If a jurisdiction allows generators subject to its authority to self-haul organic waste, it shall adopt an ordinance or a similarly enforceable mechanism that requires compliance with the requirements in Section 18988.3 of this article.

(c) Notwithstanding Subdivision (a), this section is not applicable to:

(1) A hauler that is consistent with Article 1, Chapter 9, Part 2, Division 30, commencing with Section 41950 of the Public Resources Code, transporting source separated organic waste to a community composting site; or

(2) A hauler that is lawfully transporting construction and demolition debris in compliance with Section 18989.1.

(d) Jurisdictions that are exempt from the organic waste collection requirements pursuant to Section 18984.12, and haulers and self-haulers operating or located within exempt areas of those jurisdictions, are not required to comply with the provisions of this article for the duration of an exemption issued pursuant to Section 18984.12.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18988.2. Haulers of Organic Waste Requirements.

(a) A hauler providing residential, commercial, or industrial organic waste collection services shall comply with all of the following:

(1) Organic waste collected by the hauler shall be transported to a facility, operation, activity or property that recovers organic waste as defined in Article 2 of this chapter.

(2) Obtain applicable approval issued by the jurisdiction pursuant to Section 18988.1.

(b) The hauler shall keep a record of the documentation of its approval by the jurisdiction.

(c) Notwithstanding (a), this section is not applicable to:

(1) A hauler that, consistent with Division 30, Part 2, Chapter 9, Article 1 commencing with Section 41950 of the Public Resources Code, transports source separated organic waste to a community composting site; or

(2) A hauler that is lawfully transporting construction and demolition debris in compliance with Section 18989.1.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5, Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18988.3. Self-haulers of Organic Waste.

(a) Generators of organic waste may, in compliance with Section 18988.1 of this division, self-haul their own organic waste.

(b) A generator who is a self-hauler of organic waste shall comply with the following:

(1) The generator shall source separate all organic waste generated on site in a manner consistent with Sections 18984.1 and 18984.2, or haul organic waste to a high diversion organic waste processing facility as specified in Section 18984.3.

(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.

(3) The generator shall keep a record of the amount of organic waste delivered to each solid waste facility, operation, activity, or property that processes or recovers organic waste; this record shall be subject to inspection by the jurisdiction.

(A) The records shall include delivery receipts and weight tickets from the entity accepting the waste.

(B) The record shall indicate the amount of material in cubic yards or tons transported by the generator to each entity.

(C) Notwithstanding Subdivision (b)(3)(A), if the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the self-hauler's vehicle in a manner that allows it to determine the weight of waste received, the self-hauler is not required to record the weight of material but shall keep a record of the entities that received the organic waste.

(4) A residential organic waste generator that self-hauls organic waste is not required to record or report the information identified in Subdivision (b)(3).

(c) A generator that is located in a jurisdiction or area that received a waiver under Section 18984.12 of this division and is not a business subject to the requirements of

Section 42649.81 of the Public Resources Code is not required to comply with the requirements of this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18988.4. Recordkeeping Requirements for Compliance with Jurisdiction Hauler Program.

(a) A jurisdiction shall include all relevant documents supporting its compliance with this article in the Implementation Record required by Article 14 of this chapter. Records maintained shall include but are not limited to copies of:

(1) Ordinances, contracts, franchise agreements, policies, procedures, or programs relevant to this section.

(2) A description of the jurisdiction's hauler program including:

(A) Type(s) of hauler system(s) the jurisdiction uses.

(B) Type(s) and condition(s) of approvals per type of hauler, and criteria for approvals, denials and revocations.

(C) The process for issuing, revoking, and denying written approvals.

(D) Any requirements associated with self-hauling and back-hauling.

(3) A record of hauler compliance with local ordinance(s) and the requirements of this article including the following information:

(A) Copies of all reports required from haulers.

(B) Copies of all written approvals, denials, and revocations.

(b) All records required by this article shall include the date of action, the name of the hauler, and the type of the action taken by the jurisdiction.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 8. CALGreen Building Standards and Model Water Efficient Landscape Ordinance

Section 18989.1. CALGreen Building Codes.

(a) A jurisdiction shall adopt an ordinance or other enforceable requirement that requires compliance with the following provisions of the California Green Building

Standards Code, California Code of Regulations, Title 24, Part 11 as amended July 1, 2019 and effective January 1, 2020:

(1) Section 4.410.2 Recycling by Occupants Residential and Section 5.410.1 Recycling by Occupants Non-residential.

(2) For organic waste commingled with construction and demolition debris, Section 4.408.1 Construction Waste Management Residential and Section 5.408.1 Construction Waste Management non-residential.

(b) For the purposes of this section “jurisdiction” means a city, a county, or a city and county.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18989.2 Model Water Efficient Landscape Ordinance.

(a) A jurisdiction shall adopt an ordinance or other enforceable requirement that requires compliance with Sections 492.6(a)(3)(B) (C), (D), and (G) of the Model Water Efficient Landscape Ordinance, Title 23, Division 2, Chapter 2.7 of the California Code of Regulations as amended September 15, 2015.

(b) For the purposes of this section “jurisdiction” means a city, a county, or a city and county.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 9. Locally Adopted Standards and Policies

Section 18990.1. Organic Waste Recovery Standards and Policies.

(a) Nothing in this chapter is intended to limit the authority of a jurisdiction to adopt standards that are more stringent than the requirements of this chapter, except as provided in Subdivision (b) of this section.

(b) A jurisdiction shall not implement or enforce an ordinance, policy, procedure, permit condition, or initiative that includes provisions that do any of the following:

(1) Prohibit, or otherwise unreasonably limit or restrict, the lawful processing and recovery of organic waste through a method identified in Article 2 of this chapter.

(2) Limit a particular solid waste facility, operation, property, or activity from accepting organic waste imported from outside of the jurisdiction for processing or recovery.

(3) Limit the export of organic waste to a facility, operation, property or activity outside of the jurisdiction that recovers the organic waste through a method identified in Article 2 of this chapter.

(4) Require a generator or a hauler to transport organic waste to a solid waste facility or operation that does not process or recover organic waste.

(5) Require a generator to use an organic waste collection service or combination of services that do not recover at least the same types of organic waste recovered by a service the generator previously had in place.

(c) This section does not do any of the following:

(1) Require a solid waste facility or operation to accept organic waste that does not meet the quality standards established by the solid waste facility or operation.

(2) Prohibit a jurisdiction from arranging with a solid waste facility or operation to guarantee permitted capacity for organic waste from the jurisdiction.

(3) Supersede or otherwise affect: the land use authority of a jurisdiction, including, but not limited to, planning, zoning, and permitting; or an ordinance lawfully adopted pursuant to that land use authority consistent with this section.

(4) Prohibit a jurisdiction from arranging through a contract or franchise for a hauler to transport organic waste to a particular solid waste facility or operation for processing or recovery.

(5) Exempt a jurisdiction, generator, or hauler from compliance with Division 4.5 of Title 22 of the California Code of Regulations relative to the proper handling of hazardous or universal waste or Title 3, Section 1180.48 of the California Code of Regulations relative to Disposal of Parts and Products of Animals Not Intended for Use as Human Food.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 40001, 40002, 40059, and 42652.5 and Health and Safety Code Section 39730.6.

Section 18990.2. Edible Food Recovery Standards and Policies.

(a) A jurisdiction shall not implement or enforce an ordinance, policy, or procedure that prohibits the ability of a generator, food recovery organization, or food recovery service to recover edible food that could be recovered for human consumption.

(b) A local education agency shall not implement or enforce an ordinance, policy, or procedure that prohibits share tables or requires schools to adhere to a food safety standard not specified in Part 7 of Division 104 of the Health and Safety Code.

(c) Nothing in this chapter shall be construed to limit or conflict with the provisions of the California Good Samaritan Food Donation Act of 2017 (the act). Specifically:

(1) Nothing in this chapter shall be construed to limit the amount or types of foods that may be donated under the act.

(2) Nothing in this chapter shall be construed to limit the ability of a person, gleaner or food facility to donate food as provided for in Sections 114432 and 114433 of the Health and Safety Code.

(3) Nothing in this chapter shall be construed to reduce the immunities provided by the California Good Samaritan Food Donation Act as specified in Section 114434 of the Health and Safety Code.

(d) Nothing in this chapter prohibits a food recovery service or organization from refusing to accept edible food from a commercial edible food generator.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Sections 39730.6, 114432, 114433 and 114434

Article 10. Jurisdiction Edible Food Recovery Programs, Food Generators, and Food Recovery

Section 18991.1. Jurisdiction Edible Food Recovery Program.

(a) A jurisdiction shall implement an edible food recovery program that shall include the actions that the jurisdiction will take to accomplish each of the following:

(1) Educate commercial edible food generators as set forth in Section 18985.2.

(2) Increase commercial edible food generator access to food recovery organizations and food recovery services.

(3) Monitor commercial edible food generator compliance as required in Article 14 of this chapter.

(4) Increase edible food recovery capacity if the analysis required by Section 18992.2 indicates that the jurisdiction does not have sufficient capacity to meet its edible food recovery needs.

(b) A jurisdiction may fund the actions taken to comply with this section through franchise fees, local assessments, or other funding mechanisms.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18991.2. Recordkeeping Requirements for Jurisdiction Edible Food Recovery Program.

(a) A jurisdiction shall include all documents supporting its compliance with Section 18991.1 in the Implementation Record required by Section 18995.2 and shall also include at a minimum:

(1) A list of commercial edible food generators in the jurisdiction that have a contract or written agreement with food recovery organizations or services pursuant to Section 18991.3(b).

(2) A list of food recovery organizations and food recovery services in the jurisdiction and their edible food recovery capacity.

(3) Documentation of the actions the jurisdiction has taken to increase edible food recovery capacity.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18991.3. Commercial Edible Food Generators.

(a) Tier One commercial edible food generators shall comply with the requirements of this section commencing January 1, 2022. Tier two commercial edible food generators shall comply with the requirements of this section commencing January 1, 2024.

(b) Commercial edible food generators shall arrange to recover the maximum amount of edible food that would otherwise be disposed. A commercial edible food generator shall comply with the requirements of this section through a contract or written agreement with any or all of the following:

(1) Food recovery organizations or services that will collect their edible food for food recovery.

(2) Food recovery organizations that will accept the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.

(c) A large venue or large event operator that does not provide food services, but allows for food to be provided, shall require food facilities operating at the large venue or large event to comply with the requirements of this section.

(d) A commercial edible food generator shall comply with the requirements of this section unless the commercial edible food generator demonstrates the existence of extraordinary circumstances beyond its control that make such compliance impracticable. If an enforcement action is commenced against a commercial edible food generator for noncompliance, the burden of proof shall be upon the commercial edible

food generator to demonstrate extraordinary circumstances. For the purposes of this section extraordinary circumstances are:

(1) A failure by the jurisdiction to increase edible food recovery capacity as required in Section 18991.1.

(2) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters.

(e) An edible food generator shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or service.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18991.4. Recordkeeping Requirements For Commercial Edible Food Generators.

(a) A commercial edible food generator subject to the requirements in this article shall keep a record that includes the following:

(1) A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under Section 18991.3(b).

(2) A copy of contracts or written agreements between the commercial edible food generator and a food recovery service or organization.

(3) A record of the following for each food recovery organization or service that the commercial edible food generator has a contract or written agreement with pursuant to Section 18991.3(b):

(A) The name, address and contact information of the service or organization.

(B) The types of food that will be collected by or self-hauled to the service or organization.

(C) The established frequency that food will be collected or self-hauled.

(D) The quantity of food collected or self-hauled to a service or organization for food recovery. The quantity shall be measured in pounds recovered per month.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18991.5. Food Recovery Services and 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 pursuant to Section 18991.3(b) shall maintain records specified in this section:

(1) A food recovery service shall maintain a record of:

(A) The name, address and contact information for each commercial edible food generator that the service collects edible food from.

(B) The quantity in pounds of edible food collected from each commercial edible food generator per month.

(C) The quantity in pounds of edible food transported to each food recovery organization per month.

(D) The name, address and contact information for each food recovery organization that the service transports edible food to for food recovery.

(2) A food recovery organization shall maintain a record of:

(A) The name, address and contact information for each commercial edible food generator that the organization receives edible food from.

(B) The quantity in pounds of edible food received from each commercial edible food generator per month.

(C) The name, address and contact information for each food recovery service that the organization receives edible food from for food recovery.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 11. Organic Waste Recycling Capacity Planning

Section 18992.1. Organic Waste Recycling Capacity Planning.

(a) Counties, in coordination with jurisdictions and regional agencies located within the county, shall:

(1) Estimate the amount of all organic waste in tons that will be disposed by the county and jurisdictions within the county by:

(A) Multiplying the percentage of organic waste reported as disposed in the Department's most recent waste characterization study by the total amount of landfill

disposal attributed to the county and each jurisdiction located within the county by the Recycling and Disposal Reporting System; or

(B) Using a waste characterization study or studies performed by jurisdictions located within the county and applying the results of those studies to the total amount of landfill disposal attributed to the county and each jurisdiction located within the county by the Recycling and Disposal Reporting System. Local studies may be used if the studies:

1. Were performed within the last five years,
2. Include at least the same categories of organic waste as the Department's most recent waste characterization study that was available at the time the local study or studies were performed, and,
3. Include a statistically significant sampling of solid waste disposed by the jurisdiction conducting the study.

(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, reports on tons of biosolids or digestate disposed in the county.

(3) Identify the amount in tons of existing organic waste recycling infrastructure capacity, located both in the county and outside of the county, that is verifiably available to the county and jurisdictions located within the county.

(A) A county can demonstrate the capacity is verifiably available to the county or its jurisdictions through a contract, franchise, or other documentation of existing, new, or expanded capacity at a facility, activity, operation or property that recovers organic waste that will be available to the county or its jurisdiction prior to the end of the reporting period.

(4) Estimate the amount of new or expanded organic waste recycling facility capacity that will be needed to process the organic waste identified pursuant to Subdivision (a)(1) in addition to the existing capacity identified in Subdivision (a)(3).

(b) A jurisdiction or regional agency contacted by a county pursuant to Subdivision (a) shall respond to the county's request for the information necessary to comply with the requirements of this article within 120 days of receiving the request from the county.

(1) If a jurisdiction or regional agency fails to provide the information necessary to comply with the requirements of this article within 120 days, the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3.

(2) In the report submitted pursuant to Section 18992.3 the county shall identify any jurisdiction that did not provide the information necessary to comply with the requirements of this article within 120 days of receiving a request from the county.

(c) In complying with this section, the county in coordination with jurisdictions and regional agencies located within the county shall:

(1) Consult with the Enforcement Agency and the local task force created pursuant to Section 40950 of the Public Resources Code on the status of locations for new or expanded solid waste facilities including the potential capacity increase each facility may provide if approved.

(2) Consult with haulers and owners of facilities, operations, and activities that recover organic waste including, but not limited to, compost facilities, in-vessel digestion facilities, and Publicly Owned Treatment Works to gather information on the existing capacity and potential new or expanded capacity at those facilities, operations, and activities.

(A) Entities contacted by a jurisdiction shall respond to the jurisdiction within 60 days regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes.

(3) Conduct community outreach regarding locations being considered for new or expanded facilities, operations, or activities to seek feedback on the benefits and impacts that may be associated with new or expanded facilities, operations, or activities. The community outreach shall:

(A) Include at least one of the following forms of communication: public workshops or meetings, print noticing, and electronic noticing.

(B) If applicable be conducted in coordination with potential solid waste facility operators that may use the location identified by the county and the jurisdictions and regional agencies located within the county.

(C) Include communication to disadvantaged communities that may be impacted by the development of new facilities at the locations identified by the county and the jurisdictions and regional agencies located within the county.

(D) 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 Section 18985.1(e).

(4) Consult with community composting operators to estimate the amount of organic waste the county, and the jurisdictions and regional agencies located within the county, anticipate will be handled at community composting activities.

(d) If a county determines that organic waste recycling capacity, in addition to the available and proposed capacity identified pursuant to Subdivision (a), is needed within that county, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity that it is required to:

(1) Submit an implementation schedule to the Department that demonstrates how it will ensure there is enough available capacity to recover the organic waste currently disposed by generators within their jurisdiction by the end of the report period.

(A) The implementation schedule shall include timelines and milestones for planning efforts to access capacity including, but not limited to:

1. Obtaining funding for organic waste recycling infrastructure including, but not limited to, modifying franchise agreements or demonstrating other means of financially supporting the expansion of organic waste recycling.

2. Identification of facilities, operations, and activities that could be used for additional capacity.

(2) Identify proposed new or expanded organic waste recycling facilities that will be used to process the organic waste identified pursuant to Subdivision (a)(3).

(e) The notice the county provides jurisdictions pursuant to Subdivision (d) shall be provided on or before the county submits the report required pursuant to Section 18992.3.

(f) For the purposes of this section, only the following type of organic waste shall be included in estimates: food, green waste, landscape and pruning waste, wood, paper products, printing and writing paper, digestate and biosolids.

(g) For the purposes of conducting the estimates required by this section, a county may subtract the waste generated in an area subject to a waiver granted by the Department pursuant to Section 18984.12. A county is not required to obtain information from a jurisdiction that is waived from all of the organic waste collection requirements of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18992.2. Edible Food Recovery Capacity.

(a) Counties, in coordination with jurisdictions and regional agencies located within the county, shall:

(1) Estimate the amount of edible food that will be disposed by commercial edible food generators that are located within the county and jurisdictions within the county.

(2) Identify existing capacity at food recovery organizations identified in Section 18982(a)(25)(A)–(B) that is available to commercial edible food generators located within the county and jurisdictions within the county.

(3) Identify proposed new or expanded food recovery organizations and food recovery services that will be used to recover edible food identified pursuant to Subdivision (a)(1).

(4) Identify the amount of new or expanded capacity, if any, at food recovery organizations and food recovery services that is necessary to recover the edible food that is estimated to be disposed by commercial edible food generators in (a)(1).

(b) In complying with this section the county in coordination with jurisdictions and regional agencies located within the county shall consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded, capacity that could be accessed by the jurisdiction and its commercial edible food generators.

(1) Entities contacted by a jurisdiction shall respond to the jurisdiction within 60 days regarding available and potential new or expanded capacity.

(c) If a county identifies that new or expanded capacity is needed to recover the amount of edible food identified in Subdivision (a), then each jurisdiction within that county that lacks capacity shall:

(1) 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 by commercial edible food generators within its jurisdiction by the end of the reporting period set forth in Section 18992.3 of this article.

(A) The implementation schedule shall include timelines and milestones for planning efforts to access additional new or expanded capacity including, but not limited to:

1. Obtaining funding for edible food recovery infrastructure including, but not limited to, modifying franchise agreements or demonstrating other means of financially supporting the expansion of edible food recovery capacity.

2. Identification of facilities, operations, and activities inside the county that could be used for additional capacity.

(2) Consult with food recovery organizations and food recovery services regarding existing, or proposed new and expanded, capacity that could be accessed by the jurisdiction and its commercial edible food generators.

(d) If a county finds that new or expanded capacity is needed pursuant to Subdivision (c) then on or before the county submits the report required pursuant to Section 18992.3, the county shall notify the jurisdiction or jurisdictions that lack sufficient capacity.

(e) A jurisdiction or regional agency contacted by a county pursuant to this section shall respond to the county's request for the information necessary to comply with the requirements of this section within 120 days of receiving the request from the county.

(1) If a jurisdiction or regional agency fails to provide the information necessary to comply with the requirements of this article within 120 days, the county is not required to include estimates for that jurisdiction in the report it submits pursuant to Section 18992.3.

(2) In the report submitted pursuant to Section 18992.3 the county shall identify any jurisdiction that did not provide the information necessary to comply with the requirements of this section within 120 days of receiving a request from the county.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18992.3. Schedule For Reporting.

(a) Counties, in coordination with jurisdictions and regional agencies located within the county, shall conduct the planning requirements of Sections 18992.1 and 18992.2, on the following schedule:

(1) August 1, 2022 counties shall report to the Department on the period covering January 1, 2022 through December 31, 2024.

(A) Jurisdictions that are exempt from the organic waste collection requirements pursuant to Section 18984.12, are not required to conduct the capacity planning required in Section 18992.1 and are not required to include capacity plans required by Section 18992.1 in the first reporting period.

(2) August 1, 2024 counties shall report to the Department on the period covering January 1, 2025 through December 31, 2034.

(3) August 1, 2029 counties shall report to the Department on the period covering January 1, 2030 through December 31, 2039.

(4) August 1, 2034 counties shall report to the Department on the period covering January 1, 2035 through December 31, 2044.

(b) If a jurisdiction is required to submit an implementation schedule pursuant to Section 18992.1 or 18992.2 the implementation schedule shall be submitted 120 days following the date the county submitted the report to the Department.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 12. Procurement of Recovered Organic Waste Products

Section 18993.1. Recovered Organic Waste Product Procurement Target.

(a) Except as otherwise provided, commencing January 1, 2022, a jurisdiction shall annually procure a quantity of recovered organic waste products that meets or exceeds its current annual recovered organic waste product procurement target as determined by this article. For the purposes of this section, "jurisdiction" means a city, a county or a city and county.

(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).

(c). Each jurisdiction's recovered organic waste product procurement target shall be calculated by multiplying the per capita procurement target by the jurisdiction population where:

(1) Per capita procurement target = 0.08 tons of organic waste per California resident per year.

(2) Jurisdiction population equals the number of residents in a jurisdiction, using the most recent annual data reported by the California Department of Finance.

(d) Annually, the Department shall provide notice to each jurisdiction of its annual recovered organic waste product procurement target by posting such information on the Department's website and providing written notice directly to the jurisdiction.

(e) A jurisdiction shall comply with Subdivision (a) by one or both of the following:

(1) Directly procuring recovered organic waste products for use or giveaway.

(2) Requiring, through a written contract or agreement, that a direct service provider to the jurisdiction procure recovered organic waste products and provide written documentation of such procurement to the jurisdiction.

(f) For the purposes of this article, the recovered organic waste products that a jurisdiction may procure to comply with this article are:

(1) Compost, subject to any applicable limitations of Public Contract Code Section 22150, that is produced at:

(A) A compostable material handling operation or facility permitted or authorized under Chapter 3.1 of this division; or

(B) A large volume in-vessel digestion facility as defined and permitted under Chapter 3.2 of this division that composts on-site. [NOTE: Digestate, as defined in Section 18982(a)(16.5), is a distinct material from compost and is thus not a recovered organic waste product eligible for use in complying with this Article.]

(2) Renewable gas used for fuel for transportation, electricity, or heating applications.

(3) Electricity from biomass conversion.

(4) Mulch, provided that the following conditions are met for the duration of the applicable procurement compliance year:

(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; and

(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 a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or

2. A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or

3. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

(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:

(1) One ton of organic waste in a recovered organic waste product procurement target shall constitute:

(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) 650 kilowatt-hours of electricity derived from biomass conversion.

(E) 0.58 tons of compost or 1.45 cubic yards of compost.

(F) One ton of mulch.

(h) Renewable gas procured from a POTW may only count toward a jurisdiction's recovered organic waste product procurement target provided the following conditions are met for the applicable procurement compliance year:

(1) The POTW receives organic waste directly from one or more of the following:

(A) A compostable material handling operation or facility as defined in Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or

(B) A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or

(C) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

(2) The POTW is in compliance with the exclusion described in Section 17896.6(a)(1).

(3) The jurisdiction receives a record from the POTW documenting the tons of organic waste received by the POTW from all solid waste facilities described in subsection (h)(1) above.

(4) The amount of renewable gas a jurisdiction or jurisdictions procured from the POTW for fuel, electricity or heating applications is less than or equal to the POTW's production capacity of renewable gas generated from organic waste received at the POTW directly from solid waste facilities as determined using the relevant conversion factors in Subdivision (g).

(5) The POTW transported less than 25 percent of the biosolids it produced to activities that constitute landfill disposal.

(i) Electricity procured from a biomass conversion facility may only count toward a jurisdiction's recovered organic waste product procurement target if the biomass conversion facility receives feedstock directly from one or more of the following during the duration of the applicable procurement compliance year:

(1) A compostable material handling operation or facility as defined in Section 17852(a)(12), other than a chipping and grinding operation or facility as defined in Section 17852(a)(10), that is permitted or authorized under this division; or

(2) A transfer/processing facility or transfer/processing operation as defined in Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under this division; or

(3) A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under Division 2 of Title 27 of the California Code of Regulations.

(j) If a jurisdiction's annual recovered organic waste product procurement target exceeds the jurisdiction's total procurement of transportation fuel, electricity, and gas for heating applications from the previous calendar year as determined by the conversion factors in Subdivision (g), the target shall be adjusted to an amount equal to its total procurement of those products as converted to their recovered organic waste product equivalent from the previous year consistent with Subdivision (g).

(k) A jurisdiction shall identify additional procurement opportunities within the jurisdiction's departments and divisions for expanding the use of recovered organic waste products.

(l) Rural counties, and jurisdictions located within rural counties that are exempt from the organic waste collection requirements pursuant to Section 18984.12(c), are not required to comply with the procurement requirements in this Section from January 1, 2022-December 31, 2026.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Sections 39730.6 and 39730.8.

Section 18993.2. Recordkeeping Requirements For Recovered Organic Waste Procurement Target.

(a) A jurisdiction, as defined in 18993.1(a), shall include all documents supporting its compliance with this article in the implementation record required by Section 18995.2 of this chapter including, but not limited to, the following:

(1) A description of how the jurisdiction will comply with the requirements of this article.

(2) The name, physical location, and contact information of each entity, operation, or facility from whom the recovered organic waste products were procured, and a general description of how the product was used, and if applicable, where the product was applied.

(3) All invoices or similar records evidencing all procurement.

(4) If a jurisdiction will include procurement of recovered organic waste products made by a direct service provider to comply with the procurement requirements of Section 18993.1(a), the jurisdiction shall include all records of procurement of recovered organic waste products made by the direct service provider on behalf of the jurisdiction including invoices or similar records evidencing procurement.

(5) If a jurisdiction will include renewable gas procured from a POTW for any of the uses identified in 18993.1(f)(2) to comply with the procurement mandate of Section 18993.1(a), a written certification by an authorized representative of the POTW, under

penalty of perjury in a form and manner determined by the jurisdiction, attesting to the following for the applicable procurement compliance year:

- (A) That the POTW was in compliance with the exclusion in Section 17896.6(a)(1);
- (B) The total tons of organic waste received from the types of solid waste facilities listed in Section 18993.1(h)(1); and
- (C) The percentage of biosolids that the POTW produced and transported to activities that constitute landfill disposal.

(6) If a jurisdiction will include electricity procured from a biomass conversion facility to comply with the procurement mandate of Section 18993.1(a), a written certification by an authorized representative of the biomass conversion facility certifying that biomass feedstock was received from a permitted solid waste facility identified in 18993.1(i) shall be provided to the jurisdiction. The certification shall be furnished under penalty of perjury in a form and manner determined by the jurisdiction.

(7) If the jurisdiction is implementing the procurement requirements of Section 18993.1 through an adjusted recovered organic waste product procurement target pursuant to Section 18993.1(j), the jurisdiction shall include records evidencing the total amount of transportation fuel, electricity, and gas for heating applications procured during the calendar year prior to the applicable reporting period.

(8) For jurisdictions complying with the requirements of Section 18993.1, through the procurement of mulch, a copy of the ordinance or similarly enforceable mechanism the jurisdiction has adopted requiring that mulch procured by the jurisdiction or a direct service provider meets the land application standards specified in Section 18993.1.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18993.3. Recycled Content Paper Procurement Requirements.

(a) A jurisdiction shall procure paper products, and printing and writing paper, consistent with the requirements of Sections 22150-22154 of the Public Contract Code.

(b) In addition to meeting the requirements of Subdivision (a), 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 as published January 1, 2013, which is hereby incorporated by reference.

(c) A jurisdiction shall require all businesses from whom it purchases paper products and printing and writing paper to certify in writing:

(1) The minimum percentage, if not the exact percentage, of postconsumer material in the paper products and printing and writing paper offered or sold to the jurisdiction. The

certification shall be furnished under penalty of perjury in a form and manner determined by the jurisdiction. A jurisdiction may waive the certification requirement if the percentage of postconsumer material in the paper products, printing and writing paper, or both can be verified by a product label, catalog, invoice, or a manufacturer or vendor Internet website.

(2) That the paper products and printing and writing paper offered or sold to the jurisdiction is eligible to be labeled with an unqualified recyclable label as defined in 16 CFR Section 260.12 as published January 1, 2013, which is hereby incorporated by reference.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5, and Health and Safety Code Section 39730.6.

Reference: Public Resources Code Section 42652.5; Health and Safety Code Section 39730.6; and Public Contracts Code Sections 22150, 22151, 22152, 22153, and 22154.

Section 18993.4. Recordkeeping Requirements for Recycled Content Paper Procurement.

(a) A jurisdiction shall include all documents supporting its compliance with this article in the implementation record required by Section 18995.2 of this chapter including, but not limited to, the following:

(1) Copies of invoices, receipts or other proof of purchase that describe the procurement of paper products by volume and type for all paper purchases.

(2) Copies of all certifications or other verification required under Section 18993.3.

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

Reference: Public Resources Code Section 42652.5; Health and Safety Code Section 39730.6; and Public Contracts Code Sections 22150, 22151, 22152, 22153, and 22154.

Article 13. Reporting

Section 18994.1. Initial Jurisdiction Compliance Report.

(a) Each jurisdiction shall report to the Department on its implementation and compliance with the requirements of this chapter. Each jurisdiction shall report to the Department by April 1, 2022 the following information:

(1) A copy of ordinances or other enforceable mechanisms adopted pursuant to this chapter.

(2) The reporting items identified in Section 18994.2(b).

(3) The following contact information:

(A) The name, mailing address, phone number, and email address of the employee of the jurisdiction that the jurisdiction has designated as the primary contact person for the purposes of receiving communications regarding compliance with this chapter.

(B) The name and address of the agent designated by the jurisdiction for the receipt of service of process from the Department for the purposes of enforcement of this chapter if different from (A) above.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18994.2. Jurisdiction Annual Reporting.

(a) A jurisdiction shall report the information required in this section to the Department according to the following schedule:

(1) On or before October 1, 2022, a jurisdiction shall report for the period of January 1, 2022 through June 30, 2022.

(2) On or before August 1, 2023, and on or before August 1 each year thereafter, a jurisdiction shall report for the period covering the entire previous calendar year.

(b) Each jurisdiction shall report the following, relative to its implementation of the organic waste collection requirements of Article 3 of this chapter:

(1) The type of organic waste collection service(s) provided by the jurisdiction to its generators.

(2) The total number of generators that receive each type of organic waste collection service provided by the jurisdiction.

(3) If the jurisdiction is implementing an organic waste collection service that requires transport of the contents of containers to a high diversion organic waste processing facility, the jurisdiction shall identify the Recycling and Disposal Reporting System number of each facility that receives organic waste from the jurisdiction.

(4) If the jurisdiction allows placement of compostable plastics in containers pursuant to Section 18984.1 or 18984.2, the jurisdiction shall identify each facility that has notified the jurisdiction that it accepts and recovers that material.

(5) If the jurisdiction allows organic waste to be collected in plastic bags and placed in containers pursuant to Section 18984.1 or 18984.2 the jurisdiction shall identify each facility that has notified the jurisdiction that it can accept and remove plastic bags when it recovers source separated organic waste.

(c) Each jurisdiction shall report the following, relative to its implementation of the contamination monitoring requirements of Article 3 of this chapter:

- (1) The number of route reviews conducted for prohibited container contaminants.
- (2) The number of times notices, violations, or targeted education materials were issued to generators for prohibited container contaminants.
- (3) The results of waste evaluations performed to meet the container contamination minimization requirements and the number of resulting targeted route reviews.
- (d) Each jurisdiction shall report the following relative to its implementation of waivers pursuant to Article 3 of this chapter:
 - (1) The number of days an emergency circumstances waiver as allowed in Section 18984.13 was in effect and the type of waiver issued.
 - (2) The tons of organic waste that were disposed as a result of waivers identified in Subsection (1), except disaster and emergency waivers granted in Section 18984.13(b).
 - (3) The number of generators issued a de-minimis waiver.
 - (4) The number of generators issued a physical space waiver.
 - (5) A jurisdiction that receives a waiver from the Department pursuant to Section 18984.12 of Article 3 of this chapter shall report the following information for each year the waiver is in effect:
 - (A) The number of generators waived from the requirement to subscribe to an organic waste collection service.
- (e) A jurisdiction shall report the following regarding its implementation of education and outreach required in Article 4 of this chapter:
 - (1) The number of organic waste generators and edible food generators that received information and the type of education and outreach used.
- (f) A jurisdiction shall report the following regarding its implementation of the hauler oversight requirements of Article 7 of this chapter:
 - (1) The number of haulers approved to collect organic waste in the jurisdiction.
 - (2) The Recycling and Disposal Reporting System number of each facility that is receiving organic waste from haulers approved by the jurisdiction.
 - (3) The number of haulers that have had their approval revoked or denied.
- (g) A jurisdiction subject to article 8 shall report the following regarding its implementation of the CALGreen Building Standards and Model Water Efficient Landscape Ordinance as required in Article 8 of this chapter:

(1) The number of construction and demolition debris removal activities conducted in compliance with Section 18989.1.

(2) The number of projects subject to Section 18989.2.

(h) A jurisdiction shall report the following regarding its implementation of the edible food recovery requirements of Article 10 of this chapter:

(1) The number of commercial edible food generators located within the jurisdiction.

(2) The number of food recovery services and organizations located and operating within the jurisdiction that contract with or have written agreements with commercial edible food generators for food recovery.

(A) A jurisdiction shall require food recovery organizations and services that are located within the jurisdiction and contract with or have written agreements with commercial edible food generators pursuant to Section 18991.3 (b) to report the amount of edible food in pounds recovered by the service or organization in the previous calendar year to the jurisdiction.

(3) The jurisdiction shall report on the total pounds of edible food recovered by food recovery organizations and services pursuant to Subdivision (h)(2)(A).

(i) A jurisdiction shall report the following regarding its implementation of the organic waste recycling capacity planning and edible food recovery capacity planning requirements of Article 11 of this chapter:

(1) A county shall report:

(A) The tons estimated to be generated for landfill disposal.

(B) The amount of capacity verifiably available to the county and cities within the county.

(C) The amount of new capacity needed.

(D) The locations identified for new or expanded facilities.

(E) The jurisdictions that are required to submit implementation schedules.

(F) The jurisdictions that did not provide information required by Article 11 of this chapter to the county within 120 days.

(2) Notwithstanding Subdivision (a), the information required by this subdivision shall be reported on the schedule specified in Section 18992.3.

(j) A jurisdiction, as defined in Sections 18993.1, shall report the following regarding its implementation of the procurement requirements of Article 12 of this chapter:

(1) The amount of each recovered organic waste product procured directly by the city, county, or through direct service providers, or both during the prior calendar year.

(2) If the jurisdiction is implementing the procurement requirements of Section 18993.1 through an adjusted recovered organic waste product procurement target pursuant to Section 18993.1(j), the jurisdiction shall include in its report the total amount of transportation fuel, electricity, and gas for heating applications procured during the calendar year prior to the applicable reporting period.

(k) A jurisdiction shall report the following regarding its implementation of the compliance, monitoring, and enforcement requirements specified in Articles 14-16 of this chapter:

(1) The number of commercial businesses that were included in a compliance review performed by the jurisdiction pursuant to Section 18995.1(a)(1). As well as the number of violations found and corrected through compliance reviews if different from the amount reported in Subdivision (k)(5).

(2) The number of route reviews conducted.

(3) The number of inspections conducted by type for commercial edible food generators, food recovery organizations, and commercial businesses.

(4) The number of complaints pursuant to Section 18995.3 that were received and investigated, and the number of Notices of Violation issued based on investigation of those complaints.

(5) The number of Notices of Violation issued, categorized by type of entity subject to this chapter.

(6) The number of penalty orders issued, categorized by type of entity subject to this chapter.

(7) The number of enforcement actions that were resolved, categorized by type of regulated entity.

(l) A jurisdiction shall report any changes to the information described in Sections 18994.1(a)(1) and 18994.1(a)(3).

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 14 Enforcement Requirements

Section 18995.1. Jurisdiction Inspection Requirements.

(a) On or before January 1, 2022, a jurisdiction shall have an inspection and enforcement program that is designed to ensure overall compliance with this chapter and that, at a minimum, includes the following requirements:

(1) Beginning January 1, 2022, and at least annually thereafter, a jurisdiction shall conduct the following:

(A) If the jurisdiction is using the compliance method described in Section 18984.1 or 18984.2 of this division, the jurisdiction shall complete a compliance review of all solid waste collection accounts for commercial businesses that are subject to its authority and that generate two cubic yards or more per week of solid waste, including organic waste.

1. The jurisdiction shall also determine compliance with:

i. Organic waste generator requirements set forth in Section 18984.9(a).

ii. Self-haul requirements set forth in Section 18988.3, including whether a business is complying through back-hauling organic waste.

2. Beginning April 1, 2022, the jurisdiction shall either:

i. Conduct annual route reviews of commercial businesses and residential generators for compliance with organic waste generator requirements set forth in Section 18984.9(a) and container contamination requirements set forth in Section 18984.5; or

ii. Perform waste evaluations consistent with Section 18984.5(c) to verify commercial businesses and residential generators compliance with organic waste generator requirements set forth in Section 18984.9(a).

(B) If a jurisdiction is using the compliance method described in Section 18984.3, the jurisdiction shall conduct a compliance review of all solid waste collection accounts for commercial businesses that are subject to its authority and generate two cubic yards or more per week of solid waste, including organic waste.

1. The jurisdiction shall also determine compliance with:

i. Organic waste generator requirements set forth in Section 18984.9(a) and document if the business is transporting the contents to a high diversion organic waste processing facility; or

ii. Self-hauling requirements pursuant to Section 18988.3, including whether a business is complying through back-hauling organic waste.

(2) Beginning January 1, 2022, conduct inspections of Tier One commercial edible food generators and food recovery organizations and services for compliance with this chapter. Beginning January 1, 2024, conduct inspections of Tier Two commercial edible food generators for compliance with Article 10 of this chapter.

(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 of this chapter in response to violations.

(5) Beginning January 1, 2024, a jurisdiction shall enforce this chapter pursuant to Sections 18995.4 and 18997.2 in response to violations.

(6) At least every five years from the date of issuance, verify through inspection that commercial businesses are meeting de minimis and physical space waivers for compliance consistent with the requirements of Section 18984.11.

(b) A jurisdiction shall conduct a sufficient number of route reviews and inspections of entities described in this section to adequately determine overall compliance with this chapter. A jurisdiction may prioritize inspections of entities that it determines are more likely to be out of compliance.

(c) A jurisdiction shall generate a written or electronic record for each inspection, route review, and compliance review conducted pursuant to this chapter. Each record shall include, at a minimum, the following information:

(1) Identifying information for the subject or subjects of the inspection, route review or compliance review, such as, but not limited to:

(A) The name or account name of each person or entity.

(B) A description of the hauler route and addresses covered by a route review.

(C) A list of accounts reviewed for each compliance review.

(2) The date or dates the inspection, route review, or compliance review was conducted.

(3) The person or persons who conducted the action.

(4) The jurisdiction's findings regarding compliance with this chapter, including any Notices of Violation or educational materials that were issued.

(5) Any relevant evidence supporting the findings in Subsection (4) above, such as, but not limited to, photographs and account records.

(6) Route review records shall also include a description of the locations of the route review(s) and the addresses where prohibited container contaminants are found, if any.

(d) Documentation of route reviews, compliance reviews, and inspections, as well as all other records of enforcement conducted pursuant to this chapter shall be maintained in the Implementation Record required by Section 18995.2 of this chapter, and shall include, but not be limited to:

(1) Copies of all documentation of route reviews, compliance reviews, and inspections.

(2) Copies of all enforcement actions required by Section 18995.4 of this chapter, including Notices of Violation and penalty orders.

(3) A list of the date(s) that the jurisdiction determined an entity complied with a Notice of Violation and the evidence that supports that compliance determination.

(4) Copies of notices and educational material provided as required by this section.

(e) Consistent with Section 18981.2, a jurisdiction may have a designee conduct inspections required by this section.

(f) Any records obtained by a jurisdiction through its implementation and enforcement of the requirements of this chapter shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18995.2. Implementation Record and Recordkeeping Requirements.

(a) A jurisdiction shall maintain all records required by this chapter in the Implementation Record.

(b) The Implementation Record shall be stored in one central location, physical or electronic, that can be readily accessed by the Department.

(c) Upon request by the Department, the jurisdiction shall provide access to the Implementation Record within ten business days.

(d) All records and information shall be included in the Implementation Record within 60 days of the creation of the record or information.

(e) All records shall be retained by the jurisdiction for five years.

(f) At a minimum, the following shall be included in the Implementation Record:

- (1) A copy of all ordinances or other similarly enforceable mechanisms, contracts, and agreements, as required by this chapter.
 - (2) A written description of the jurisdiction's inspection and enforcement program that it uses to comply with Sections 18995.1 and 18995.4.
 - (3) All organic waste collection service records required by Section 18984.4.
 - (4) All contamination minimization records required by Section 18984.6.
 - (5) All waiver and exemption records required by Section 18984.14.
 - (6) All education and outreach records required by Section 18985.3.
 - (7) All hauler program records required by Section 18988.4.
 - (8) All jurisdiction edible food recovery program records required by Section 18991.2.
 - (9) All recovered organic waste procurement target records required by Section 18993.2.
 - (10) All recycled content paper procurement records required by Section 18993.4.
 - (11) All inspection, route review, and compliance review documents generated pursuant to the requirements of Section 18995.1(d).
 - (12) All records of enforcement actions undertaken pursuant to this chapter.
 - (13) All records of complaints and investigations of complaints required by Section 18995.3 and compliance with the jurisdiction's inspection and enforcement requirements of Sections 18995.1.
 - (14) All records required by Section 18998.4 if the jurisdiction is implementing a performance-based source separated organic waste collection service under Article 17 of this chapter.
- (g) All records maintained in the Implementation Record shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 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 of this chapter. The jurisdiction shall allow for the submission of anonymous complaints.

(b) The procedure shall provide that complaints be in writing and include the following information:

(1) If the complaint is not anonymous, the name and contact information of the complainant.

(2) The identity of the alleged violator, if known.

(3) A description of the alleged violation including location(s) and all other relevant facts known to the complainant.

(4) Any relevant photographic or documentary evidence to support the allegations in the complaint.

(5) The identity of any witnesses, if known.

(c) A jurisdiction shall commence an investigation within 90 days of receiving a complaint that meets the requirements of Subdivision (b) if the jurisdiction determines that the allegations, if true, would constitute a violation of this chapter. The jurisdiction may decline to investigate a complaint if, in its judgment, investigation is unwarranted because the allegations are contrary to facts known to the jurisdiction.

(d) The jurisdiction shall provide a procedure to notify a complainant of the results of their complaint if the identity and contact information of the complainant are known.

(e) The jurisdiction shall maintain records of all complaints and responses pursuant to this section in the Implementation Record set forth in Section 18995.2. The records shall include the complaint as received and the jurisdiction's determination of compliance or notice of violations issued.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18995.4. Enforcement by a Jurisdiction.

(a) With the exception of violations of the prohibited container contaminants provisions in Section 18984.5(a), which a jurisdiction shall enforce through the notice provisions of Section 18984.5(b), for violations of this chapter occurring on or after January 1, 2024, the jurisdiction shall take enforcement action as set forth in this section.

(1) The jurisdiction shall issue a Notice of Violation requiring compliance within 60 days of the issuance of that notice.

(2) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, the jurisdiction shall commence an action to impose penalties pursuant to Article 16 of this chapter.

(b) The jurisdiction may extend the compliance deadlines set forth in a Notice of Violation issued pursuant to Subdivision (a) if it finds that extenuating circumstances beyond the control of the respondent make compliance within the deadlines impracticable. For purposes of this section, extenuating circumstances are:

(1) Acts of God such as, earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(2) Delays in obtaining discretionary permits or other government agency approvals; and

(3) Deficiencies in organic waste recycling capacity infrastructure or edible food recovery capacity, and the relevant jurisdiction is under a Corrective Action Plan pursuant to Section 18996.2 due to those deficiencies.

(c) A Notice of Violation shall include the following information:

(1) The name(s), or account name(s) if different, of each person or entity to whom it is directed.

(2) A factual description of the violations of this chapter, including the regulatory section(s) being violated.

(3) A compliance date by which the operator is to take specified action(s).

(4) The penalty for not complying within the specified compliance date.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 15. Enforcement Oversight by the Department

Section 18996.1. Department Evaluation of Jurisdiction Compliance.

(a) The Department shall evaluate a jurisdiction's compliance with this chapter as set forth in this article.

(b) In conducting a compliance evaluation, the Department shall review the jurisdiction's Implementation Record and may conduct inspections, compliance reviews, and route reviews.

(c) The Department shall notify the jurisdiction prior to conducting a compliance evaluation.

(d) The Department shall provide its findings to the jurisdiction in writing.

(e) If the Department determines at any time that an ordinance adopted by a jurisdiction is inconsistent with or does not meet the requirements set forth in this chapter, the

Department shall notify the jurisdiction and provide an explanation of the deficiencies. The jurisdiction shall have 180 days from that notice to correct the deficiencies. If the jurisdiction does not, the Department shall commence enforcement actions as set forth in Section 18996.2.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.2. Department Enforcement Action Over Jurisdictions.

(a) The Department shall enforce this chapter according to the following procedures:

(1) Issue a Notice of Violation requiring compliance within 90 days of the date of issuance of that notice. The Department shall grant an extension for up to a total of 180 days from the date of issuance of the Notice of Violation if it finds that additional time is necessary for the jurisdiction to comply.

(2) The Department shall extend the deadline for a jurisdiction to comply beyond the maximum compliance deadline allowed in Subdivision (a)(1) by issuing a Corrective Action Plan setting forth the actions a jurisdiction shall take to correct the violation(s). A Corrective Action Plan shall 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.

(A) If a jurisdiction is unable to comply with the maximum compliance deadline allowed in Subdivision (a)(1) due to deficiencies in organic waste recycling capacity infrastructure, the Department shall issue a Corrective Action Plan for such violations upon making a finding that:

1. Additional time is necessary for the jurisdiction to comply; and
2. The jurisdiction has provided organic waste collection service to all hauler routes where it is practicable and the inability to comply with the maximum compliance deadline in Subdivision (a)(1) is limited to only those hauler routes where organic waste recycling capacity infrastructure deficiencies have caused the provision of organic waste collection service to be impracticable.
3. The Department shall, if applicable, consider implementation schedules, as described in Section 18992.1, for purposes of developing a Corrective Action Plan but shall not be restricted in mandating actions to remedy violation(s) and developing applicable compliance deadline(s) to those provided in the Implementation Schedule.

(B) For the purposes of this section, “substantial effort” means that a jurisdiction has taken all practicable actions to comply. Substantial effort does not include circumstances where a decision-making body of a jurisdiction has not taken the

necessary steps to comply with the chapter including, but not limited to, a failure to provide adequate staff resources to meet its obligations under this chapter, a failure to provide sufficient funding to ensure compliance, or failure to adopt the ordinance(s) or similarly enforceable mechanisms under Section 18981.2.

(C) For the purposes of this section, “extenuating circumstances” are:

1. Acts of God, such as earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters.
2. Delays in obtaining discretionary permits or other government agency approvals.
3. An organic waste recycling infrastructure capacity deficiency requiring more than 180 days to cure.

(3) A Corrective Action Plan shall be issued by the Department with a maximum compliance deadline no more than 24 months from the date of the original Notice of Violation and shall include a description of each action the jurisdiction shall take to remedy the violation(s) and the applicable compliance deadline(s) for each action. The Corrective Action Plan shall describe the penalties that may be imposed if a jurisdiction fails to comply.

(A) 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.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.3. Department Enforcement When Jurisdiction Fails to Enforce.

The Department shall take direct enforcement action against an entity subject to a jurisdiction’s enforcement authority under this chapter consistent with the following requirements:

(a) If the jurisdiction fails to comply by the deadline in a Notice of Violation, or extension thereto, issued under Section 18996.2(a)(1) for failure to take enforcement action as required by this chapter, the Department shall take direct enforcement action against that entity pursuant to Section 18996.9 upon the Department’s compliance with Subdivision (b).

(b) Prior to initiating enforcement action under Section 18996.9 against the entity, the Department shall notify the jurisdiction in writing of its intent to do so and shall include a general description of the grounds for the Department’s action.

(c) Nothing in this section shall be construed as a limitation on the Department taking enforcement action against the jurisdiction for a failure to comply with the requirements of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.4. Access for Inspection by the Department.

(a) Upon presentation of proper credentials, an authorized Department employee or agent shall be allowed to enter the premises of any entity subject to this chapter during normal working hours to conduct inspections and investigations in order to examine organic waste recovery activities, edible food recovery activities, and records in order to determine compliance with this chapter. Methods may include, but are not limited to, allowing the review or copying or both, of any paper, electronic, or other records required by this chapter.

(1) This subdivision is not intended to permit an employee or agent of the Department to enter a residential property.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.5. Enforcement Actions Against Organic Waste Generators Located In Multiple Jurisdictions.

(a) In matters of substantial statewide concern, where multiple jurisdictions determine that Department enforcement may be more effective at achieving the intent of this chapter than separate enforcement by each jurisdiction, multiple jurisdictions may, together, file a joint enforcement referral under this section.

(b) The joint referral may request that the Department take enforcement action in lieu of those jurisdictions against an organic waste generator or generators, including a commercial edible food generator or generators, with locations, at minimum, in each of those jurisdictions.

(c) The joint referral shall be filed with the director of CalRecycle and shall include:

(1) A statement of facts that includes a description of the following:

(A) The relevant locations of the organic waste generator or generators at issue;

(B) The alleged violations of this chapter, the locations of those violations, and the relevant regulatory sections; and

(C) All evidence known to the jurisdictions that supports the allegations in the statement of facts.

(2) An analysis of the following issues:

(A) Why the relevant enforcement matter is of substantial statewide concern; and

(B) The basis of the finding by the jurisdictions that Department enforcement against the relevant organic waste generator or generators will be more effective at achieving the intent of this chapter than separate enforcement by each jurisdiction.

(3) A signature from the person in each jurisdiction responsible for compliance with this chapter, as currently reported to the Department in Article 13, certifying that the allegations contained in the referral are true and correct to the best of their knowledge.

(d) The Department shall take enforcement action in lieu of the jurisdictions pursuant to this section and Section 18996.9 upon a finding that:

(1) The referral meets the requirements of this section and includes credible evidence supporting all of the factual allegations therein;

(2) The relevant enforcement matter described in the joint referral is of substantial regional or statewide concern; and

(3) Department enforcement action against the relevant organic waste generator will be more effective at achieving the goals of this chapter than separate enforcement by each jurisdiction.

(e) The Department shall respond, in writing, to the joint referral with a determination as to whether it will take enforcement action against the relevant generator in lieu of the jurisdictions.

(1) If the Department agrees to take enforcement action pursuant to a joint referral, the Department shall issue a written order to the relevant jurisdictions mandating suspension of their individual enforcement actions against the relevant organic waste generator or generators.

(2) If the Department fails to respond to a joint referral within 90 days of receipt, the joint referral shall be deemed denied.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.6. Department Enforcement Action Regarding State Agencies.

(a) If the Department finds that a state agency is violating Article 5 or Article 10 of this chapter, then the Department shall take the following actions:

(1) Issue a Notice of Violation requiring compliance within 90 days of the date of issuance of that notice. The Department shall grant an additional extension up to 180 days from the date of issuance of the Notice of Violation if it finds that additional time is

necessary for the state agency to comply. The Department shall base its finding on available evidence, including relevant evidence provided by the state agency.

(2) If a state agency fails to comply by the final deadline in a Notice of Violation, the Department shall take the following actions:

(A) List the state agency on the Organic Waste Recovery Noncompliance Inventory on the Department's website until such time as the Department finds that the state agency is no longer in violation.

(B) Notify the Governor.

(C) Notify the Legislature.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.7. Department Enforcement Action Regarding Local Education Agencies and Federal Facilities.

(a) If the Department finds that a local education agency or federal facility is violating this chapter, the Department shall issue a Notice of Violation requiring compliance within 90 days. The Department shall grant an additional extension up to 180 days from the date of issuance of the Notice of Violation if it finds that additional time is necessary for the local education agency or federal facility to comply. The Department shall base its finding on available evidence, including relevant evidence provided by the local education agency or federal facility. If the local education agency or federal facility fails to comply with the final deadline in a Notice of Violation, the Department shall list the local education agency or federal facility on the Organic Waste Recovery Noncompliance Inventory on its website until such time as the Department determines that the local education agency or federal facility is no longer in violation.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.8. Department Investigation of Complaints of Alleged Violations.

(a) The Department shall receive and investigate written complaints of alleged violations of this chapter according to the requirements of this section.

(b) Complaints may be submitted anonymously, shall be submitted in writing, and shall include the following information.

(1) If the complaint is not anonymous, the name and contact information of the complainant.

(2) The identity of the alleged violator, if known.

(3) A description of the alleged violation including location(s) and all other relevant facts known to the complainant.

(4) Any relevant photographic or documentary evidence to support the allegations in the complaint.

(5) The identity of any witnesses, if known.

(c) The Department shall commence an investigation within 90 days of receiving a complaint that meets the requirements of Subdivision (b) if the Department determines the allegations, if true, would constitute a violation of this chapter subject to the enforcement authority of the Department. The Department may decline to investigate a complaint if, in its judgment, investigation is unwarranted because the allegations are contrary to facts known to the Department. The Department shall notify the complainant of the results of the investigation if the identity and contact information of the complainant are known.

(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 under Section 18995.3.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18996.9. Department Enforcement Actions Against Entities.

(a) The Department shall take enforcement action against the following entities pursuant to the requirements of this section when a jurisdiction has failed to enforce this chapter as determined under Section 18996.3, or lacks the authority to enforce this chapter:

(1) Organic waste generators, commercial edible food generators, haulers, and food recovery organizations and services; and

(2) A non-local entity that is not subject to Section 18996.6 or 18996.7.

(b) Violations of this chapter that are subject to this section shall be enforced as follows:

(1) For a first violation:

(A) The Department shall issue a Notice of Violation requiring compliance within 60 days of the issuance of that notice.

(B) If the violation continues after the compliance deadline in the Notice of Violation, the Department shall issue a Notice and Order to Correct requiring compliance within 30 days of issuance of that Notice and Order. The Notice and Order to Correct shall inform

the respondent that the Department shall impose penalties upon failure to comply by the deadline in that Notice and Order.

(C) If the violation continues after the compliance deadline in the Notice and Order to Correct, the Department shall commence action to impose penalties pursuant to Section 18997.5.

(2) For a second or subsequent violation occurring within 5 years of a first violation:

(A) The Department shall issue a Notice and Order to Correct requiring compliance within 30 days of the issuance of that Notice and Order. The Notice and Order to Correct shall inform the respondent that the Department may impose penalties upon failure to comply by the deadline in that Notice and Order.

(B) If the violation continues after the compliance deadline in the Notice and Order to Correct, the Department shall commence action to impose penalties pursuant to Section 18997.5.

(c) The Department shall extend the deadlines set forth in Subdivision (b) if it makes the following findings based on available evidence, including relevant evidence provided by the respondent:

(1) Additional time is necessary to comply.

(2) Extenuating circumstances beyond the control of the respondent make compliance impracticable. For the purposes of this section, "extenuating circumstances" are:

(A) Acts of God, such as earthquakes, wildfires, mudslides, flooding, and other emergencies or natural disasters.

(B) Delays in obtaining discretionary permits or other government agency approvals.

(C) An organic waste recycling infrastructure capacity deficiency and the jurisdiction within which the respondent is located is subject to a Corrective Action Plan pursuant to Section 18996.2 due to such deficiencies.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 16. Administrative Civil Penalties

Section 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.

(b) A jurisdiction shall adopt ordinance(s) or enforceable mechanisms to impose penalties as prescribed in Section 18997.2.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 41850, 42652.5 and Health and Safety Code Section 39730.6

Section 18997.2. Penalty Amounts.

(a) A jurisdiction shall impose penalties for violations of the requirements of this chapter consistent with the applicable requirements prescribed in Government Code Sections 53069.4, 25132 and 36900. The penalty levels shall be as follows:

(1) For a first violation, the amount of the base penalty shall be \$50-\$100 per violation.

(2) For a second violation, the amount of the base penalty shall be \$100-\$200 per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be \$250-\$500 per violation.

(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 requirements outside the scope of this chapter in addition to the imposition of penalties authorized under this section.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5, Health and Safety Code Section 39730.6 and Government Code Sections 25132, 36900 and 53069.4.

Section 18997.3 Department Penalty Amounts.

(a) Penalties shall be imposed administratively in accordance with the requirements set forth in this section.

(b) Penalties, except for violations specified in subdivision (d), shall be assessed as follows:

(1) A "Minor" violation means a violation involving minimal deviation from the standards in this chapter, where the entity failed to implement some aspects of a requirement but has otherwise not deviated from the requirement. The penalties for this type of violation shall be no less than five hundred dollars (\$500) per violation and no more than four thousand dollars (\$4,000) per violation per day.

(2) A "Moderate" violation means a violation involving moderate deviation from the standards in this chapter. A violation which is not a minor violation or a major violation shall be a moderate violation. The penalties for this type of violation shall be no less than four thousand dollars (\$4,000) per violation and shall be no more than seven thousand five hundred dollars (\$7,500) per violation per day.

(3) A “Major” violation means a violation that is a substantial deviation from the standards in this chapter 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 for this type of violation shall be no less than seven thousand five hundred dollars (\$7,500) per violation per day and no more than ten thousand dollars (\$10,000) per violation per day. For purposes of this subsection, a major violation shall always be deemed to include the following types of violations:

(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 other authorization that requires a hauler to comply with the requirements 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 Sections 18990.1 or 18990.2.

(F) A jurisdiction fails to submit the reports required in Sections 18994.1 and 18994.2.

(c) Once the penalty range has been determined pursuant to Subdivision (b), the following factors shall be used to determine the amount of the penalty for each violation within that range:

(1) The nature, circumstances, and severity of the violation(s).

(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 violations of this chapter.

(5) Evidence of any economic benefit resulting from the violation(s).

(6) The deterrent effect of the penalty on the violator.

(7) Whether the violation(s) were due to conditions outside the control of the violator.

(d) For violations of the Recovered Organic Waste Product Procurement requirements in Section 18993.1, where a jurisdiction fails to procure a quantity of recovered organic waste products that meets or exceeds its recovered organic waste product procurement target, the Department shall determine penalties under this Subdivision (d) based on the following:

(1) The Department shall calculate the jurisdiction’s daily procurement target equivalent by dividing the procurement target by 365 days.

(2) The Department shall determine the number of days a jurisdiction was in compliance by dividing the total amount of recovered organic waste products procured by the daily procurement target equivalent.

(3) The Department shall determine the number of days a jurisdiction was out of compliance with the procurement target by subtracting the number of days calculated in Subdivision (d)(2) from 365 days.

(4) The penalty amount shall be calculated by determining a penalty based on the factors in Subdivision (c) above, and multiplying that number by the number of days determined according to Subdivision (d)(3). The penalty amount shall not exceed \$10,000 per day.

(e) Notwithstanding Subdivisions (a)-(d) if the Department sets a penalty amount for multiple violations of this chapter, the aggregated penalty amount for all violations shall not exceed the amount authorized in Section 42652.5 of the Public Resources Code.

(f) Nothing in this section shall be construed as authorizing the Department to impose penalties on residential organic waste generators.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Sections 41850, 42652.5 and Health and Safety Code Section 39730.6.

Section 18997.4. Organic Waste Recovery Noncompliance Inventory.

(a) If the Department finds that a state agency, local education agency, or federal facility has failed to meet the final deadline in a Notice of Violation issued under this chapter, the Department shall send a notice stating that the Department has placed the respondent on the Organic Waste Recovery Noncompliance Inventory listed on its website. The Department may remove the respondent from the Organic Waste Recovery Noncompliance Inventory upon a finding, based on available evidence, that the respondent is no longer in violation of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18997.5. Department Procedure for Imposing Administrative Civil Penalties.

(a) The Department shall commence an action to impose administrative civil penalties by serving an accusation on a jurisdiction, person and/or entity, and a notice informing the jurisdiction, person, and/or entity of their right to a hearing conducted pursuant to Section 18997.6.

(b) The accusation and all accompanying documents may be served on the respondent(s) by one of the following means:

- (1) Personal service;
 - (2) Substitute service by using the same service procedures as described in Section 415.20 of the Code of Civil Procedure;
 - (3) Certified Mail or registered mail; or
 - (4) Electronically, with the consent of the respondent(s).
- (c) Upon receipt of the accusation, the respondent shall file a request for hearing with the director of the Department within 15 days or the respondent will be deemed to have waived its right to a hearing.
- (d) The Department shall schedule a hearing within 30 days of receipt of a request for hearing that complies with the requirements of this section.
- (e) The hearing shall be held before the director of the Department, or the director's designee, within 90 days of the scheduling date.
- (f) If the respondent(s) waive(s) the right to a hearing, the Department shall issue a penalty order in the amount described in the accusation.
- (g) The director of the Department, or the director's designee, shall issue a written decision within 60 days of the conclusion of the hearing.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18997.6. Department Procedures for Hearings and Penalty Orders.

- (a) A hearing required under this chapter shall be conducted by the director of the Department, or the director's designee, in accordance with the informal hearing requirements specified in Chapter 4.5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) A penalty order issued under Section 18997.5 shall become effective and final upon issuance thereof, and payment shall be due within 30 days of issuance, unless otherwise ordered by the director or the director's designee. A penalty order may be served by any method described in Section 18997.5(b).

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Article 17: Performance-Based Source Separated Organic Waste Collection Service

Section 18998.1. Requirements for Performance-Based Source Separated Collection Service.

(a) If a jurisdiction implements a performance-based source separated organic waste collection service it shall:

(1) Provide a three-container organic waste collection service consistent with Section 18984.1 (a), (b) and (d)-(f) of this chapter to at least 90 percent of the commercial businesses and 90 percent of the residential sector subject to the jurisdiction's authority.

(2) Transport the contents of the source separated organic waste collection stream to a designated source separated 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.

(A) The annual average percent of organic waste present in the gray container collection stream shall be determined by the results of waste evaluations performed by the jurisdiction pursuant to Section 18984.5.

(B) The annual average percent of organic waste present in a jurisdiction's gray container collection stream is the average of the results of the gray container waste collection stream samples performed by the jurisdiction in the immediately previous four quarters pursuant to Section 18984.5.

(4) Provide collection service to organic waste generators subject to their authority. Consistent with Section 18984.1, a jurisdiction shall not require commercial businesses or residents to request solid waste collection service prior to enrollment.

(5) Notify the Department pursuant to Section 18998.3.

(b) Jurisdictions that delegate collection services to a designee shall include in their contracts or agreements with the designee a requirement that all haulers transport the source separated organic waste collection stream collected from generators subject to the authority of a jurisdiction to a designated source separated organic waste facility.

(c) If a jurisdiction fails to meet the requirements of this section after notifying the Department in accordance with Section 18998.3, the jurisdiction shall implement an organic waste collection service that complies with the requirements of Article 3 of this chapter. The jurisdiction shall be subject to the applicable enforcement processes outlined in this chapter until services that comply with Article 3 are provided to generators, and the jurisdiction shall not be eligible for the compliance exceptions in Section 18998.2.

(d) A hauler providing a performance-based source separated collection service is not required to comply with the provisions of Section 18988.2 in jurisdictions implementing this service, but shall comply with the following in jurisdictions implementing this service:

(1) Only transport the source separated organic waste collection stream to a designated source separated organic waste recycling facility,

(2) Keep a record of the documentation of its approval by the jurisdiction.

(e) The requirements of Subdivision (d) are not applicable to:

(1) A hauler that, consistent with Division 30, Part 2, Chapter 9, Article 1, commencing with Section 41950 of the Public Resources Code, transports source separated organic waste to a community composting site; or

(2) A hauler that is lawfully transporting construction and demolition debris in compliance with Section 18989.1.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18998.2. Compliance Exceptions.

(a) If a jurisdiction implements a performance-based source separated collection service that meets the requirements of Section 18998.1(a), the jurisdiction shall not be subject to the following:

(1) The collection requirements in Sections 18984.2 and 18984.3.

(2) The container labeling requirements in Section 18984.8, and waivers in Section 18984.11.

(3) The recordkeeping requirements in Sections 18984.4, and 18984.14.

(4) The organic waste recovery education and outreach requirements in Section 18985.1.

(5) The recordkeeping requirements in Section 18985.3 except as related to edible food recovery education and outreach performed under Section 18985.2.

(6) The regulation of haulers in Article 7 of this chapter.

(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 Sections 18995.1, except for the provisions related to edible food generators and food recovery organizations and services in that section.

(9) The implementation record and recordkeeping requirements in Section 18995.2(f)(3)-(7). Implementation Records requirements in Section 18995.2(f)(11)-(13) shall only be required for inspections and enforcement related to edible food generators and food recovery organizations and services.

(10) The jurisdiction investigation of complaints of alleged violations requirements in Section 18995.3, except as it pertains to entities subject to the edible food recovery requirements of Article 10 of this chapter.

(11) The jurisdiction enforcement requirements in Section 18995.4, except as it pertains to entities subject to the edible food recovery requirements of Article 10 of this chapter.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18998.3. Notification to Department.

(a) A jurisdiction that will implement a performance-based source separated collection service beginning in 2022 shall notify the Department on or before January 1, 2022. A jurisdiction that will implement a performance-based source separated collection system in any subsequent year shall notify the Department on or before January 1 of that year.

(b) The notification shall include the following information:

(1) The name of the jurisdiction.

(2) Date the jurisdiction will start providing the performance-based source -separated collection service.

(3) Contact information for the jurisdiction, including the name, address and telephone number of the representative of the jurisdiction with primary responsibility for ensuring compliance with this article.

(4) The address within the jurisdiction where all records required by this chapter are maintained.

(5) A list of each designated source separated organic waste facility, landfill disposal facility and any other solid waste facility and their Recycling and Disposal Reporting System number for any facility that will be receiving solid waste directly from the jurisdiction.

(6) The name of any designee the jurisdiction has delegated responsibilities to pursuant to Section 18998.1 and any relevant documentation demonstrating the designee's obligation to comply with the provisions of this article.

(7) A statement by the representative of the jurisdiction with primary responsibility for ensuring compliance with this article, under penalty of perjury, that all information contained in the notification is true and correct to the best of their knowledge and belief.

(8) The percent of commercial businesses and the percent of the residential sector currently enrolled in organic waste collection services provided by the jurisdiction.

(c) In the initial report to the department required in Section 18994.1, a jurisdiction implementing a performance-based source separated organic waste collection service shall certify that at least 90 percent of the commercial businesses and 90 percent of the residential sector subject to the jurisdiction's authority are enrolled in a collection service that complies with the requirements of Section 18998.1.

Authority cited: Public Resources Code Sections 40502, 43020, 43021 and 42652.5.
Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.

Section 18998.4. Recordkeeping.

A jurisdiction implementing a performance-based source separated organic waste collection service pursuant to this article shall maintain the following information and documents in the Implementation Record required by Section 18995.2:

(a) The geographical area each designee serves.

(b) If a designee is used, a copy of the contract or agreement for each designee specifying the requirement that all haulers transport the source separated organic waste collection stream collected from generators subject to the jurisdiction's authority to a designated source separated organic waste facility.

(c) Records evidencing compliance with Section 18998.1(a) including, but not limited to:

(1) A current list of generator addresses subject to the authority of the jurisdiction.

(2) A current list of generator addresses subject to the authority of the jurisdiction that are served with a performance-based source separated organic waste collection service.

(3) A current list of generator addresses within the jurisdiction that the jurisdiction does not require to use the performance-based source separated organic waste collection service.

(4) Documentation of the enrollment system used by the jurisdiction consistent with Section 18998.1(a)(4).

(d) A jurisdiction implementing a performance-based source separated organic waste collection service is still required to maintain the following records specified in Section 18995.2:

(1) Records required by (f)(1).

(2) Records required by (f)(2) and (6) as they pertain to the edible food recovery requirements chapter.

(3) Records required by (f)(8)-(10).

(4) Records required by (f)(11)-(13) as they pertain to the edible food recovery requirements of this chapter.

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

Reference: Public Resources Code Section 42652.5 and Health and Safety Code Section 39730.6.