

## **REQUEST FOR APPROVAL**

**To:** Zoe Heller  
Director

**From:** Kate Nitta  
Assistant Chief Counsel, Legal Affairs Office

**Request Date:** January 16, 2024

**Subject:** Proposed Illegal Disposal Emergency Rulemaking

**Action By:** January 17, 2024

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### **Summary of Request:**

This is a summary of a proposed emergency regulatory notice package pertaining to amendments to the sections 17402, 17414, 17414.2, 17852, 17854.1, 17869, 17896.45, 18302, 18303, 18304, and 18304.1 and adoptions of sections 17410.5, 17862.3, 17868.6, and 17896.62 of Chapters 3, 3.1, 3.2, and 5, Division 7, Title 14, of the California Code of Regulations (CCR). These regulations are being promulgated to ensure that the statewide land application infrastructure can continue to operate while ensuring that those activities which are land applying compostable material, digestate, and/or mulch, are under solid waste enforcement agency (EA) regulatory oversight as necessary to prevent or mitigate the illegal final disposition of material onto land to protect public health and safety and the environment.

### **Background Information, Analysis, and Findings:**

CalRecycle finds that an emergency exists due to significant illegal dumping of solid waste, including organic waste and construction and demolition waste, occurring in the Antelope Valley region in Los Angeles, San Bernardino, and Kern Counties. This illegal dumping is occurring in large part because of significant limitations within the regulations implementing the Integrated Solid Waste Management Act that are inhibiting or preventing the Antelope Valley EAs from addressing the generation, transportation, and disposition of the solid waste at issue. This waste has caused fires and nuisance, and created a significant risk of harm to public health and safety and to the environment.

The limitations within the existing regulatory framework have made it extremely challenging if not impossible for EAs to enforce the Integrated Solid Waste Management Act. These regulations will allow enforcement agencies to use the authority granted in Public Resources Code section 44000.5 to bring enforcement actions against any person who causes solid waste to be disposed of, arranges for solid waste to be disposed of, transports solid waste for the purpose of disposal, or accepts solid waste for the purpose of disposal, except for at a solid waste disposal facility for which a

permit has been issued. Existing regulations only allow enforcement agencies to bring an enforcement action against facility operators or the owners of the property where the waste is disposed, not the other actors that facilitate its disposal.

These emergency regulations define Land Application Activities and place those activities within CalRecycle's Regulatory Tiers. This ensures that Land Application Activities are subject to appropriate approvals, inspections requirements, and operate within state minimum standards, including operational and record keeping requirements. The emergency regulations will regulate land application of compostable material, including digestate, and mulch. The emergency regulations will ensure that the statewide land application infrastructure can continue to operate in compliance with regulatory requirements while ensuring that those activities which are land applying compostable material, digestate, and/or mulch, are under EA regulatory oversight to prevent or mitigate the impacts of the illegal final disposition of material onto land in order to protect public health and safety and the environment. Without these regulations, EAs would not have the authority to inspect and take enforcement on land application activities and to monitor the end destination, quantity, and quality of material sent from solid waste facilities and operations for land application.

The proposed regulations will amend current CCR and adopt additional language to achieve the following benefits and objectives:

- Prevent and mitigate the illegal final deposition of material that does not meet the quality standards of land application onto lands of the state to protect public health and safety and the environment.
- Add a new enforcement agency notification regulatory tier, Land Application Activity, with requirements for land application, material storage time limits, record keeping, and inspection responsibilities for the EA.
- Ensure material produced from solid waste facilities sent for land application meet the land application requirements by:
  - Establishing sampling requirements to test material quality prior to it leaving the site.
  - Amending recordkeeping requirements to include the test results, quantity, and end destination for each load of material sent for land application.
  - Provide records of test results to landowners upon receipt of material.
- Clarify and strengthen the EA's investigation and enforcement authority to prevent and mitigate the final deposition of material that does not meet the land application requirements onto lands of the state.
- Prohibit material types from being land applied that pose a risk to public health and safety and the environment.

### **Fiscal Impact:**

CalRecycle has determined that adoption of these regulations does have a cost to local and state government agencies. Based on the results of a Fiscal Analysis prepared pursuant to Government Code section 11346.3(c)(1), CalRecycle estimates the fiscal

impact of this regulation is \$90,322.68 in FY 2024-25, \$77,7745.88 in FY 2025-26, and \$77,745.88 in FY 2026-27.

**Recommendation:**

Based on the information presented in this Request for Approval, staff recommends the adoption of the proposed regulatory text, form 400, form 399, and its supporting documents for the Land Application emergency regulations.

Upon approval of this request, staff will work with the Legal Office to make the necessary filings with the Office of Administrative Law to enact the emergency regulations.

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**Director Action:**

On the basis of the information and analysis in this Request for Approval, I hereby approve the amendment of sections 17402, 17414, 17414.2, 17852, 17854.1, 17869, 17896.45, 18302, 18303, 18304, 18304.1, and adoption of sections 17410.5, 17862.3, 17868.6, 17896.62 of Chapters 3, 3.1, 3.2, and 5, Division 7, Title 14, of the California Code of Regulations (CCR) and in doing so, fulfill CalRecycle's obligations pursuant to PRC Section 40502, 43020, 43021, and 44000.5.

Zoe Heller

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Heller  
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Zoe Heller  
Director

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Date Signed

**Attachments:**

1. Proposed Regulatory Text
2. STD Form 400
3. STD Form 399 and Appendix
4. Notice of Proposed Emergency Action
5. CalEPA Memo and Attachment