COUNTY OF VENTURA
ENVIRNOMENTAL HEALTH DIVISION
LOCAL ENFORCMENT AGENCY

INDEX OF DOCUMENTS FOR
THE COMPLETE ADMINISTRATIVE RECORD
OF THE ADMINISTRATIVE HEARING
FOR APPEAL OF
THE LOCAL ENFORCEMENT AGENCY (LEA)
CEASE AND DESIST ORDER
ISSUED TO WAYNE FISHBACK ON MAY 11, 2006

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By AMG

DOCUMENTS:

1. Appellant's May 26, 2006 request for hearing to appeal Cease and Desist Order

2. LEA's June 6, 2006 Response to Appeal filed by appellant

3. Appellant's July 18, 2006 Hearing Brief and Exhibits

4. LEA's August 29, 2006 Reply Brief to the July 18, 2006 Appellant's Brief

5. LEA Exhibits submitted to the Hearing Officer at the July 20, 2006 appeal hearing

6. Compilation of closing briefs:

   a. Appellant's Closing Brief, September 18, 2006
   b. LEA's Final Closing Brief, September 18, 2006
   c. Hearing Officer NOTICE OF DECISION, September 22, 2006

7. Hearing Transcripts:

   a. June 21, 2006 Hearing
   b. July 20, 2006 Hearing
   c. August 31, 2006 Hearing

RESOURCE MANAGEMENT AGENCY

County of Ventura

Weights and Measures
Jim Delperdang
Sealer

June 26, 2006

Kate M. Neiswender
P.O. Box 24617
Ventura, CA 93002

By U.S. Mail and Facsimile 805-649-8188

Re: Request for Hearing Continuance to July 20, 2006 (Wayne Fishback)

Dear Ms. Neiswender:

A hearing was held on June 21, 2006 for an appeal by Wayne Fishback to a Cease and Desist Order issued by Ventura County Environmental Health Division (Local Enforcement Agency). Your request for a continuance to July 20, 2006 was entered into the record and there was no objection by the County. I am granting a continuance in the Fishback matter until July 20, 2006 at 9:00 a.m. The hearing will be held in Room 311 at the Ventura County Government Center in the Hall of Administration.

Sincerely,

Jim Delperdang

Jim Delperdang, Hearing Officer
Resource Management Agency

cc: William Stratton, Ventura County EHD
Local Enforcement Agency

2

800 South Victoria Avenue, L# 1750, Ventura, CA 93009 (805) 654-2444 Fax (805) 654-5177

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

June 6, 2006

Jim Delperdang
Hearing Officer
County of Ventura
800 South Victoria Avenue
Ventura, CA 93009

SUBJECT: LOCAL ENFORCEMENT AGENCY (LEA) RESONSE TO AN APPEAL FILED BY WAYNE FISHBACK (APPELLANT) FOR A CEASE AND DESIST ORDER

AUTHORITY

The County of Ventura Environmental Health Division (EHD) has been designated by all of the cities in Ventura County as well as the County Board of Supervisors as the Local Enforcement Agency (LEA) for the enforcement of solid waste regulations and local ordinances concerning the storage, handling, and disposal of solid waste in Ventura County. This designation has been certified by the California Integrated Waste Management Board pursuant to the Public Resources Code (PRC), Division 30, Part 4, Chapter 2. The LEA authority is further granted to the EHD by the Board of Supervisors in the Ventura County Ordinance Number 4258 (Exhibit #1). Pursuant to the PRC Section 43200 et seq., the LEA has the authority and responsibility to make decisions and determinations as to how state and local regulations apply to the storage, handling and disposal of solid waste throughout Ventura County.

Statutes and regulations that address the storage, handling, processing, and disposal of solid waste and permitting, and operating requirements of solid waste facilities are set forth in the PRC, Division 30, cited as the California Integrated Waste Management Act of 1989, and the California Code of Regulations, Title 14 (14 CCR), Division 7. With respect to this appeal, the following definitions are provided:

- PRC Section 40191. (a) Except as provided in subdivision (b), "solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles

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and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.

- PRC Section 40191. (a) Except as provided in subdivisions (b) and (c). "solid waste disposal" or "disposal" means the final deposition of solid waste onto land, into the atmosphere, or into the waters of the state.

Other relevant PRC and 14 CCR sections are attached as Exhibit #2.

BACKGROUND

In response to a complaint received by the LEA concerning alleged illegal disposal of solid waste in the unincorporated area of East Ventura County generally referred to as the North American Cutoff Road area in the Santa Susana Hills, the LEA investigated and determined that Wayne Fishback (Fishback) was operating or was allowing the operation of a solid waste disposal site on property owned or controlled by him. By letter dated April 4, 2006, (Exhibit #3), the LEA informed Fishback of this determination and directed him, pursuant to PRC Sections 44001, 44002 and 14 CCR, Chapter 3, Article 5.95, to submit to the LEA the required application and obtain a permit to operate a solid waste disposal facility by the deadline of May 1, 2006. Fishback failed to submit an application and obtain the required permit within the specified time frame. As a result, on May 11, 2006, the LEA issued a Cease and Desist Order (Exhibit #4) as required by PRC Section 44002 (a) (1), (b), which states that:

> "(a)(1) No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division.
>
> (b) If the enforcement agency determines that a person is operating a solid waste facility in violation of subdivision (a), the enforcement agency shall immediately issue a cease and desist order pursuant to PRC Section 45005 ordering the facility to immediately cease all activities for which a solid waste facilities permit is required and desist from those activities until the person obtains a valid solid waste facilities permit authorizing the activities or has obtained other authorization pursuant to this division."

The LEA also determined that the solid waste disposal activities on Fishback's property were subject to the permitting and operational requirements set forth in 14 CCR, Division 7, Chapter 3, Article 5.95, Section 17387 et seq.

Fishback was directed to cease accepting solid waste and disposing of solid waste on property owned or controlled by him. These properties are identified by the following Assessor Parcel Numbers: 649-0-320-260, 649-0-020-090, 649-0-020-100, 649-0-020-050, 649-0-320-340, 649-0-320-280, 649-0-020-110.

In accordance with the PRC Section 44310, the person subject to an enforcement order issued by the LEA has the right to a hearing before the hearing officer to appeal the enforcement order provided the person submits a written request for a hearing and includes a detailed statement of issues for which the appeal has been filed. On May 26, 2006, Fishback's attorney, Kate M. Neiswender, submitted to the LEA the attached document (Exhibit #5) entitled, "Appeal From Cease and Desist Order of the Ventura County Local Enforcement Agency ("LEA")." Although this document does not include a specific request for a hearing, the LEA is nevertheless considering the document to be such a request.

Pursuant to PRC Section 44310, the LEA is required to file a written response to the statement of issues filed by the person requesting the hearing.

The LEA provides the following responses to the four statements of issues identified by Ms. Neiswender in Exhibit #5.

LEA RESPONSES TO STATEMENT OF ISSUES:

ISSUE #1 – "The Fishback grading operation are legally-conducted agricultural slope stabilization and erosion control activities, and is not subject to the regulations cited by the LEA"

LEA response: Fishback is disposing of solid waste without a permit. This conduct is in violation of PRC Section 44001, 44002(a) (1), and 14 CCR Sections 17388 et seq.

- PRC Section 44001. "Any person who proposes to become an operator of a solid waste facility shall file with the enforcement agency having jurisdiction over the facility, or the board if there is no designated and certified enforcement agency, an application for a solid waste facilities permit at least 150 days in advance of the date on which it is desired to commence operation, unless the enforcement agency issues a permit to the applicant to commence operations prior to that time."

- PRC Section 44002 (a) (1). "No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division."

  "Grading, agricultural slope stabilization, and erosion control" activities are monitored and regulated by other agencies and may be conducted without oversight from the LEA if solid waste is not used in the activity. The PRC and 14 CCR govern the disposal of

solid waste and the requirements are independent of the regulatory requirements enforced by other agencies.

The Cease and Desist Order issued by the LEA was in direct response to the illegal disposal of solid waste on the Fishback property. By definition (PRC Section 40191), solid waste includes demolition and construction wastes. Also, by definition (PRC Section 40192(a)), solid waste disposal means the final depositon of solid waste onto the land. By including demolition and constructions wastes in his "grading operation," Fishback is disposing solid waste without the required LEA permit.

ISSUE #2 – "The Fishback grading operation is subject to the Ventura County Hillside Erosion Control Ordinance ("HECO"), as monitored and governed by the Ventura County Resource Conservation District ("RCD"). Prior to the RCD application, Fishback was informed by RCD that the slope stabilization and erosion control activities were exempt from regulation as less than 10% of the total ranch was being worked. The RCD has been working with Fishback to complete a HECO plan, which plan is exempt from the regulations cited by the LEA."

LEA response: Requirements of the Resource Conservation District (RCD) and the Hillside Erosion Control Ordinance No. 3539 (HECO) (Exhibit #6), are separate from the statutes and regulations concerning solid waste and are not at issue with the Cease and Desist order issued to Fishback. Fishback's agreements or discussions with the RCD are irrelevant to the enforcement action taken by the LEA. Being subject to, or exempt from, the HECO does not exempt Fishback from the statutes and regulations set forth in the PRC and 14 CCR.

Additionally, HECO Section 11.01 states:

> "This ordinance is supplemental to existing grading regulations and does not supersede them."

Ventura County grading regulations are set forth in the Ventura County Ordinance Number 4274, known as the Ventura County Building Code (VCBC) (Exhibit #7). VCBC Section 3306.2 states [inter lia]:

> "Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction."

Because Fishback is disposing of solid waste as part of his "grading operation" without the required LEA permit, he is in violation of the PRC, 14 CCR, and

Ventura County Ordinance No. 4258, as enforced by the Ventura County Environmental Health Division.

ISSUE #3 – "The clean fill utilized in the Fishback grading operation is not subject to the regulations cited by the LEA, and are protected by case law, Public Resources Code §§40000 *et seq*, Title 14 of the California Code of Regulations, Division 7, and Ventura County Ordinance 4308."

LEA response: The LEA inspection of the property as well as discussions with Fishback, confirm that Fishback has imported solid waste to his properties for use in his "grading operation". This solid waste included but may not be limited to construction and demolition waste, inert debris, and Type A inert debris as defined in 14 CCR Section 17388, which includes but is not limited to bricks, stucco and other similar solid waste. This material is defined as solid waste in PRC Section 40191, and further defined in 14 CCR, Section 17388 (as a subset of solid waste) as construction, demolition, and inert debris, and therefore subject to regulation by the LEA.

The statement of issues from Fishback does not contain a definition for "clean fill". If the "clean fill" to which they refer includes solid waste consisting of construction and demolition waste, inert debris, or type A inert debris as defined in 14 CCR, then the solid waste used in the "grading operation" is subject to the statutes set forth in the PRC, Division 30, Section 40000 et seq. In general, engineering and geotechnical terms, "clean fill" refers to well graded soil, sand, and rocks, not the construction and demolition debris that Fishback has been disposing on his property.

Labeling this solid waste as "clean fill" does not exempt it from statutes and regulations enforced by the LEA.

In addition to PRC Section 40192, 14 CCR, Article 5.95 Section 17388 (e) defines disposal as the final deposition of construction and demolition waste or inert debris onto land. 14 CCR, Article 5.95, Section 17387, sets forth the permitting requirements, tier requirements and minimum operating standards for operation and facilities that dispose construction and demolition waste and inert debris.

Statutes contained in PRC and regulations set forth in 14 CCR enforced by the LEA were promulgated by the State legislature and the CIWMB to protect public health and the environment from the potential adverse impacts that result from the improper storage, handling, processing, and disposal of solid waste. Solid waste reduction and waste diversion requirements set forth in the PRC as well as Ventura County Ordinance 4308 are administered in the unincorporated area by the Ventura County Public Works Agency and are separate from the statutes and regulations enforced by the LEA. Ventura County Ordinance Number 4308, Article 3, Section 4740 (Exhibit #8) provides for the regulation of solid waste collection, processing, and disposal in the

unincorporated area of the County ... "that are not encompassed within the regulatory powers of the local enforcement agency ...". This Ordinance goes on to state in Section 4740-3 that the article "shall not limit, preclude, or supersede any other criminal or civil liability or remedy provided in any other law or regulation applicable to Solid Waste, Solid Waste Handling and Solid Waste Facilities nor shall this Article preclude any other person from enforcing laws or regulations affecting Solid Waste to the extent permitted by law."

Fishback has not cited any specific case law to support his claim that the illegal disposal of solid waste as determined by the LEA and supported by PRC and 14CCR is protected by case law. In fact PRC, Division 30, Section 40000 et seq. sets forth the permitting requirements, enforcement procedures, and operating requirements for solid waste disposal facilities. Moreover, Section 44002 and 45005 require that a person operating a solid waste facility must obtain a permit and the LEA shall issue a cease and desist order to the person if the permit is not acquired by the operator.

ISSUE #4 – "Similar grading operations in the County have not been targeted for investigation or permitting by the LEA; Fishback is being singled out for disparate treatment."

> LEA response: Fishback is not being "singled out for disparate treatment." Fishback's choice of using solid waste in his "fill/grading" operation has resulted in regulatory oversight by the LEA as required by PRC, Division 30, Section 40000 et seq. There are three other construction and demolition waste and inert debris disposal sites in Ventura County that are regulated by the LEA. Generally, the LEA investigates and takes action, when appropriate, on complaints of illegal dumping and solid waste activities after these complaints are received. Fishback recently reported several possible illegal dumping and fill activities in the unincorporated area that are currently being investigated by the LEA.

OTHER ISSUES

The appeal document (Exhibit #5) makes reference to "more detailed objections" from Fishback that "have been included in letters "to County staff. Copies of County staff's responses to these letters are provided in Exhibit #9.

Please call me at 654-2821 if you have any questions.

WILLIAM C. STRATTON, MANAGER
LOCAL ENFORCEMENT AGENCY
ENVIRONMENTAL HEALTH DIVISION

Attachments:

EXHIBIT 1	Ventura County Ordinance Number 4258
EXHIBIT 2	California Public Resources Code and California Code of Regulations, Title 14. Relevant sections of the codes cited.
EXHIBIT 3	April 4, 2006 letter of determination from the LEA.
EXHIBIT 4	Cease and Desist Order
EXHIBIT 5	Notice of Appeal
EXHIBIT 6	Hillside Erosion Control Ordinance
EXHIBIT 7	Ventura County Ordinance Number 4274
EXHIBIT 8	Ventura County Ordinance Number 4308
EXHIBIT 9	Corresondences to/from Wayne Fishback and representatives

c: Wayne Fishback (w/ Attachments)
Kate Neiswender (w/ Attachments)
Hearing Clerk (w/ Attachments)
Cathleen Oliver, California Integrated Waste Management Board (w/ Attachments)

EXHIBIT 1

Ventura County Ordinance Number 4258

ORDINANCE NO. 4258

AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS REPEALING AND ENACTING PROVISIONS OF THE VENTURA COUNTY ORDINANCE CODE PERTAINING TO THE REGULATION OF SOLID WASTE

The Board of Supervisors of the County of Ventura ordains as follows:

1. Sections 4130 through 4140, inclusive, of Article 2 of Chapter 1 of Division 4, and Sections 4700 through 4721, inclusive, of Article 1 of Chapter 7 of Division 4 of the Ventura County Ordinance Code are hereby repealed; and

2. Sections 4700 through 4705, inclusive, Sections 4719 through 4727, inclusive, and Section 4730 are hereby enacted to be a part of Article 1 of Chapter 7 of Division 4 of the Ventura County Ordinance Code.

ARTICLE 1 - REGULATION OF THE DISPOSAL AND HANDLING OF SOLID WASTE AND RECYCLABLE MATERIAL, HEALTH PERMITS AND RELATED FEES

Sec. 4700 - REGULATION OF SOLID WASTE GENERALLY - This Article provides for the regulation of the storage, collection, transportation, transfer, processing, composting, recycling and disposal of solid waste, for fees related thereto and for the enforcement of state and local laws, regulations and standards that are or may become applicable thereto.

Sec. 4700-1 - Authorization - This Article is enacted pursuant to the police power of the County of Ventura and pursuant to the authority conferred by the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, (referred to in this Article as the "Act"). Sections of this Article that apply to the incorporated areas of Ventura County are enacted pursuant to the authority conferred by the Act, which specifically authorizes the Environmental Health Division of the Resource Management Agency of the County of Ventura, as the certified enforcement agency (referred to in this Article as "Division"), to implement an enforcement program under the Act applicable throughout the incorporated and unincorporated areas of Ventura County and to collect fees applicable thereto. Fees provided in this Article are also adopted pursuant to the Act and Health and Safety Code Section 101280, as amended.

Sec. 4700-2 - Civil Administration and Enforcement - The Division and its Director are hereby authorized to administer and enforce this Article in Ventura County. Except with respect to the matters that are specifically provided for

within Article 3 and Article 4 of Chapter 7 of Division 4 (commencing with Section 4740 of the Ventura County Ordinance Code), as amended, the Division is hereby designated as the enforcement agency to administer and enforce the Act in Ventura County. The Division shall have full authority to enforce the Act and this Article in all areas of Ventura County where applicable. Unless otherwise provided, the Division is also authorized to enforce all other regulatory state laws, regulations and standards that are or that may become applicable to solid waste.

Sec. 4700-3 - **Criminal Administration and Enforcement** - The Director of the Division and the Director's designees are hereby designated as enforcing agents for this Article and, as such, are also authorized to enforce the criminal provisions of this Article.

(a) Pursuant to the authority vested in the Board of Supervisors of the County of Ventura by California Penal Code Section 836.5, the Director and the Director's designees shall have the power to arrest without warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed in his or her presence a criminal violation of this Article.

(b) In any case in which a person is arrested for violating criminal provisions of this Article and the person arrested does not demand to be taken before a magistrate, the arresting officer, including without limitation those officers designated by the Director, shall prepare a written notice to appear, deliver one copy of the notice to appear to the arrested person, and release the person on his promise to appear, as prescribed by Chapter 5C of Title 3 of Part 2 of the California Penal Code (commencing with Section 853.5), as amended. The provisions of that Chapter shall thereafter apply with reference to any proceedings based upon the issuance of a written notice to appear pursuant to this Article.

4700-4 - Applicable Procedures and Other Laws and Remedies - Both the Act and this Article include civil enforcement procedures. If the Division is enforcing provisions of this Article, it shall proceed in accordance with the procedures in this Article or any other applicable provisions of the Ventura County Ordinance Code. If the Division is enforcing the Act or regulations and standards adopted by the California Integrated Waste Management Board pursuant to the Act or any solid waste permit issued thereunder, the Division shall proceed in accordance with the procedures in the Act. If the Division has issued an enforcement order pursuant to the enforcement procedures under the Act which has become final under the Act, the Division may also enforce the order by implementing all provisions of this Article with respect to abatement of violations or conditions resulting therefrom, as provided in this Article or, as provided in the general abatement procedures found in Division 13 of the Ventura County Ordinance Code (commencing with sec. 13000 et seq.).

Sec. 4701 - DEFINITIONS - Unless the context provides otherwise, the terms of this Article shall be construed in accordance with the following definitions. Terms not defined shall be construed in accordance with the usage and definition of terms provided in those laws affecting solid waste that are subject to enforcement by the Division, including without limitation the Act.

Sec. 4701-1 - Act - "Act" shall mean the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended.

Sec. 4701-2 - Approved Disposal Area – "Approved disposal area" shall mean any property for which an applicable solid waste permit, authorized pursuant to the Act, and a health permit, authorized pursuant to this Article, have been issued that allow such property to be used for the disposal of solid waste.

Sec. 4701-3 - Board – "Board" shall mean the Board of Supervisors of the County of Ventura.

Sec. 4701-4 - Business of Collection of Solid Waste – "Business of collection of solid waste" shall mean a business enterprise in any form, which obtains or receives from the generator solid waste and removes, hauls, or transports such material for ultimate disposal or recycling and includes, without limitation, solid waste hauling services.

Sec. 4701-5 - Collector – "Collector" shall mean any person who engages in the business of collection of solid waste generated at any property, whether commercial or residential, located in the incorporated or unincorporated areas of Ventura County, or generated at property located outside of Ventura County if such person transports such waste to any location within the incorporated or unincorporated areas of Ventura County for solid waste processing, composting, transfer or disposal. For purposes hereof, "collector" shall include the owner or owners of, and all persons in control of, such collector.

Sec. 4701-6 - County – "County" shall mean the County of Ventura, a political subdivision of the State of California.

Sec. 4701-7 - Director – "Director" shall mean the Director of the Environmental Health Division of the Resource Management Agency of the County of Ventura, or such other official the Director may designate.

Sec. 4701-8 - Disposal – "Disposal" shall mean the final deposition of solid waste onto property.

Sec. 4701-9 - Dispose – "Dispose" or its derivations shall mean to throw away, leave, discard, or abandon, including without limitation, accomplishing the same by dumping, depositing, spilling, leaking, emitting, emptying, discharging, or

releasing.

Sec. 4701-10 - Division – "Division" shall mean the Environmental Health Division of the Resource Management Agency of the County of Ventura or its successor agency.

Sec. 4701-11 - Enforcement Order – "Enforcement order" shall mean a corrective action order (also commonly referred to as notice and order), a cease and desist order or any other enforcement order that has been issued under the authority of and pursuant to the enforcement procedures set forth in the Act, found in Part 5 of the Act (commencing with section 45000 of the Public Resources Code, as amended) or as may be authorized by any regulation or standard adopted pursuant to the Act.

Sec. 4701-12 - Gardening or Landscaping Services – "Gardening or landscaping services" shall mean the provision of such services to residential or commercial customers for which the collection and transport of solid waste is limited to trimmings and other landscape-related material generated by and through these services.

Sec. 4701-13 - General Abatement Procedure – "General abatement procedure" shall mean the nuisance abatement provisions found in Division 13 of the Ventura County Ordinance Code (commencing with Section 13000 et. seq.), as amended.

Sec. 4701-14 - Hearing Officer – "Hearing officer" shall mean the person designated by the Director to conduct hearings in accordance with section 4730 et seq. The hearing officer may include any employee of the County other than the investigating officer involved in the particular proceeding or such officer's supervisor. Where the general abatement procedure is applicable, hearing officer shall mean the hearing officer appointed to implement such procedure.

Sec. 4701-15 - Inert Waste – "Inert waste" shall mean solid waste that does not chemically decompose by natural processes, such as concrete, sand, gravel, rock, soil or brick and that is not mixed with decomposable waste required to be disposed at a Class 1, 2 or 3 disposal facility unless such decomposable material is insignificant and is only included incidentally or inadvertently. Inert waste shall not include any hazardous waste or any soluble pollutants at concentrations in excess of the applicable water quality objectives.

Sec. 4701-16 - Land Clearing Services – "Land clearing services" shall mean the periodic cleanup and removal from property of inert, organic, construction or demolition waste for which the collection and transportation of such material is limited to the material cleared and removed from such property. Land clearing services shall not include services related to the cleanup of litter or dump sites.

Sec. 4701-17 - **Liquid Waste** – "Liquid waste" shall mean any waste material that is not spadeable.

Sec. 4701-18 - **Person** – "Person" or "persons" shall mean and include any individual, group of individuals acting together, firm, sole proprietorship, partnership, association, corporation, limited liability company, public entity, government, municipality, district, or any other entity or group, public or private.

Sec. 4701-19 - **Property** – "Property" shall mean any site, location, tract or land, body of water, area, or surrounding atmosphere, including without limitation any building, structure, or premise, whether or not residential or commercial, privately or publicly owned.

Sec. 4701-20 - **Recyclable Material** - "Recyclable material" shall mean any type of material that would otherwise become solid waste but, instead, is or may be recycled, and shall include material that is commingled or source separated, including green waste and other waste that may be composted or otherwise reused.

Sec. 4701-21 - **Regulation or Standard** – "Regulation(s)" or "standard(s)" shall mean the regulations or standards, as amended, adopted by the Waste Management Board under the Act.

Sec. 4701-22 - **Remedial and Abatement Action** – "Remedial and abatement action" shall mean all work or activities to remedy or abate the presence or effect of any solid waste, its constituents or decomposed elements, whether or not hazardous, at any property, and shall include, without limitation, the removal, control, containment, alteration, modification, handling, treatment, conversion, elimination, reduction, enclosing or monitoring of such material, in whole or in part.

Sec. 4701-23 - **Remedial Costs** – "Remedial costs" shall mean all costs, direct or indirect, incurred by the Division or the County, associated with preparing or conducting any site characterization study or preparing or implementing any remedial or abatement action. Such costs shall be included as abatement costs, as defined in subdivisions d. and e. of Section 13050, as amended, of the general abatement procedure, where such procedure is applicable.

Sec. 4701-24 - **Service or Serve** – "Service" or "serve" when used in connection with providing notification to any person including the Division shall mean the delivery or mailing of those documents required by this Article to certain designated persons by personal delivery to such person or by mailing such documents, registered, postage prepaid, to such person's home or business address. Such service shall be deemed complete on the date of delivery or mailing, whichever is earlier. Where a person upon whom service is made may appeal to the hearing officer, such notice shall disclose the person's right to such

appeal, the method by which appeal may be initiated and the time limits that apply to a request for appeal. Where service is required as to the owner of any real property, the owner shall mean each person currently listed as owner on the most recent County tax assessment rolls with respect to such property.

Sec. 4701-25 - Site Characterization Study – "Site characterization study" shall mean those activities and resulting analysis and reports related to one or more of the following pertaining to any property:

(a) the nature and composition of any solid waste, its elements and its decomposed constituents, whether or not hazardous;

(b) the physical boundaries of any solid waste, its elements and its decomposed constituents, including the area affected by any contaminants originating from such material;

(c) the nature and extent of any gases generated from solid waste, its elements or its decomposed constituents, including the extent to which such gases have spread and the potential health hazard associated therewith;

(d) the nature and extent of any actual or potential contamination of groundwater or surface water caused by solid waste, its elements or its decomposed constituents, including the concentration and identification of the contaminants; and,

(e) the nature and extent of any actual or potential impact on buildings, landfill covers or any other type of structure or physical configuration of property, including without limitation, those related to the containment and maintenance of sites where solid waste is located.

Sec. 4701-26 - Solid Waste – "Solid waste" shall mean solid waste, as defined under the Act, including without limitation recyclable material.

Sec. 4701-27 - Solid Waste Chipping and Grinding Operation – "Solid waste chipping and grinding operation(s)" shall mean any activity where solid waste that is primarily green waste or wood is received and is chipped or ground for reuse and where such activity is subject to regulatory compliance by any regulation or standard, whether or not a solid waste permit is required.

Sec. 4701-28 - Solid Waste Facility – "Solid waste facility" shall mean any facility for which a solid waste permit is required.

Sec. 4701-29 - Solid Waste Permit – "Solid waste permit" shall mean a solid waste permit or solid waste facility permit or any other permit or permission to operate issued pursuant to the Act or any regulation or standard adopted

thereunder, including without limitation any notification, registration or standardized permit or any other authorization.

Sec. 4701-30- Waste Management Board – "Waste Management Board" shall mean the California Integrated Waste Management Board or its successor agency.

Sec. 4702 - HEALTH PERMIT –

(a) Except as provided in Section 4702-4, no person shall engage in any of the following activities in the incorporated or unincorporated areas of Ventura County without having a current valid health permit issued by the Division with respect to such activity:

(1) operate any solid waste facility;
(2) be a collector of solid waste; or
(3) perform any solid waste chipping and grinding operations.

(b) No person who is the owner, lessee or person in control of property located in the incorporated or unincorporated areas of Ventura County shall permit, consent, approve or allow any person at any time to violate subdivision (a) of this Section on or at such property.

(c) No person who is the owner of, or who controls the operations of, any collector, solid waste facility or any solid waste chipping and grinding operation shall permit, consent, approve or allow any such activity to be conducted in violation of subdivision (a) of this Section.

Sec. 4702-1 - Application, Issuance and Renewal - The health permit shall be in addition to any other permit required by law, including any solid waste permit, whether or not any such permit is required. Application for a health permit shall be made to the Division in a form prescribed by the Director. Such permit shall be issued by the Division after any solid waste permit, if required, has been issued. A health permit issued pursuant to this Section shall be valid for a period of twelve (12) months from the date of issuance, subject to renewal each year thereafter. Failure to satisfy any of the conditions set forth in Section 4702-2 shall be grounds for the Division to deny or refuse to renew the health permit.

Sec. 4702-2 - Health Permit Conditions - The health permit shall be issued in a form prescribed by the Director. The issuance and effectiveness of such health permit shall be conditioned upon and shall require each of the following:

(a) that the permittee or any person on the permittee's behalf pay all applicable fees prescribed by Section 4703 and its Subsections or any Board resolution adopted thereunder that are due and payable in accordance therewith; and,

(b) that the permittee maintain in effect any solid waste permit, if applicable.

Sec. 4702-3 - **Revocation, Suspension and Reinstatement of Health Permits** - The Division may revoke or suspend a health permit if there is a failure to satisfy at any time any of the conditions of the health permit, as set forth in Section 4702-2. The Division's action to revoke or suspend a health permit shall be effective immediately upon service of notice on the permittee if the action is based on the revocation or suspension of any applicable solid waste permit, or shall be effective fifteen (15) days after service of notice to the permittee if the action is based on the failure to pay fees, unless within such period the permittee or other person pays the fees, including any delinquency charges to the Division. The Division shall promptly reinstate a health permit that has been revoked or suspended if, as the case may be, the applicable solid waste permit is reinstated or obtained or if all applicable fees, including any delinquencies, are paid in full to the Division.

Sec. 4702-4 - **Exemptions from Health Permit** - Notwithstanding the provisions of Section 4702, no person shall be required to have a health permit for the following activities, provided however that this exemption shall not apply if the Waste Management Board issues at any time any regulations or standards applicable to such activity:

(a) Inert Waste - The collection and transport of inert waste;
(b) Liquid Waste - The collection and transport of liquid waste;
(c) Gardening or Landscaping Services - The collection and transport of solid waste obtained solely through the provision of gardening or landscaping services; or,
(d) Land Clearing Services - The collection and transport of solid waste obtained solely through the provision of land clearing services.

Sec. 4702-5 - **Disputes as to Health Permits** - Any disputes as to issuance, renewal, revocation, suspension, or reinstatement of health permits shall be resolved by writ of mandate brought by the permittee pursuant to Code of Civil Procedure Section 1085.

Sec. 4703 - **FEES FOR ADMINISTRATION AND ENFORCEMENT** - The following fees are authorized by this Article. The Board shall by resolution prescribe the specific circumstances and terms for the assessment and collection of such fees. Such fees shall be applicable in the incorporated and unincorporated areas of Ventura County.

Sec. 4703-1 - **Fees for Health Permits** - In addition to any other fee prescribed by this Article or any other law, each applicant for a health permit shall pay a health permit fee as a condition for issuance of such permit and shall pay a health permit fee each year thereafter as a condition for renewal of such permit. The health permit fee shall be used to pay the Division's costs, including personnel costs, associated with administering health permits during each year. The Board shall establish by resolution the schedule of such fees, which shall be based upon the Division's costs to perform such activities.

Sec. 4703-2 - **Solid Waste Control Fee** - In addition to any other fee prescribed by this Article or any other law, each permittee under a health permit issued in accordance with Section 4702 and any other person to whom the following fee is applicable shall pay a solid waste control fee to be used to pay the Division's costs, including attorney's fees, associated with administration and enforcement in Ventura County of this Article and the Act, or any regulation or standard adopted thereunder. The Board shall establish by resolution the schedule of such fees, which shall be based upon the Division's associated costs. In such resolution the Board may assess the fee based upon weight, volume or type of solid waste, may exempt certain permittees or types of solid waste and may limit the application of the fee to particular permittees and to particular circumstances. The Board by resolution may also require that the solid waste control fee be paid monthly, quarterly, semi-annually or annually depending upon the type of operation or type of solid waste.

Sec. 4703-3 - **Fees for Services** - In addition to any other fee prescribed by this Article or any other law, any person who requests that the Division provide the following services or, as the case may be, makes application for a solid waste permit or for an exemption from such permit under the Act, or any regulation or standard promulgated thereunder, shall pay at the time of such application or request for such services a fee to the Division for the costs incurred or expected to be incurred by the Division for such services, as provided further below. Such services are:

(a) processing applications for solid waste permits and exemptions therefrom;
(b) pre-application review of proposed solid waste facilities, operations and projects;
(c) preparation of a site characterization study or plan of remediation and abatement, or remediation work, including without limitation, such work performed with respect to any unpermitted, closed, illegal or abandoned solid waste disposal site or solid waste facility, or review and approval by the Division of such activities conducted by other persons;
(d) evaluation, review or approval of alternative technology proposals for solid waste handling, processing, or disposal with respect to any type of solid waste;
(e) evaluation, review or approval of closure and post-closure maintenance plans for any solid waste site or solid waste facility;
(f) recordation of any release of a notice of noncompliance;
(g) inspection of a collector's trucks or equipment by the Division's personnel to be paid by the collector in circumstances where the collector or its authorized representative failed to be present or to provide the trucks or equipment for inspection at the appointed time and place and where the Division's personnel were present at the inspection site at the appointed time, with such fee calculated by

multiplying the number of hours the Division's personnel take to travel to and from the location of the inspection and their regular business offices in Ventura, California, multiplied by the approved contract hourly rate of such personnel;

and,

(h) any other requested service pertaining directly or indirectly to the Division's regulation of solid waste pursuant to the Act or this Article.

The Board shall establish by resolution the contract hourly rate for the personnel associated with providing such services. The actual fees charged shall be based on this contract hourly rate multiplied by the number of hours to provide such services. The Director may require that a deposit to cover such fees be made prior to commencing such work. In the event that the deposit paid in advance of such service exceeds the actual costs of such service, the Division shall repay such excess to the person paying the fee after such service is completed or the request for such service is withdrawn. In the event that the deposit paid in advance of such service is insufficient to pay all of the Division's fees, the person requesting such service shall pay to the Division additional fees to reimburse the Division for the deficiency. The Division may require that the applicant pay such additional fees in advance of the Division's completion of such service.

Sec. 4703-4 - **Enforcement of Fees** - With respect to all fees provided in this Article, the Division may withhold associated services or take whatever action is authorized by Section 4702 with respect to health permits, if any of the required fees are not paid on a timely basis. Any person required to pay fees pursuant to this Article shall maintain records sufficient to verify the appropriate amount of the fees, including records for fees that the Board determines by resolution are necessary. In the case of solid waste control fees, the permittee shall report any information to the Division in a form prescribed by the Director to determine and verify the amount of the fee. The information shall be reported at regular intervals as determined by resolution of the Board. Submission of the report shall be signed under penalty of perjury by the permittee. All fees that are not paid within thirty (30) days of the due date or invoice date shall be deemed delinquent and shall be subject to a five (5) percent late charge for the first thirty (30) day period following delinquency and an additional two (2) percent late charge compounded monthly for each month thereafter. All solid waste control fees shall be subject to an additional five (5) percent late charge if any report of information required by the Director to verify solid waste control fees is not served on the Division within thirty (30) days of its due date, and an additional two (2) percent late charged compounded monthly for each delinquent month thereafter.

Sec. 4704 - **ILLEGAL DISPOSAL OF SOLID WASTE** –

(a) No person shall at any time dispose of any solid waste on or at any property located in the unincorporated areas of Ventura County, which such property is not an approved disposal area.

(b) No person who is the owner, lessee or person in control of property located in the unincorporated areas of Ventura County shall permit, consent, approve or allow any person at any time to violate subdivision (a) of this Section on or at such property.
(c) No person who is the owner of, or who controls the operations of, any collector, solid waste facility or any solid waste chipping and grinding operation shall permit, consent, approve or allow any such activity to be conducted in violation of subdivision (a) of this Section.

Sec. 4705 - FAILURE TO MAINTAIN CONTROL OF SOLID WASTE - No person, including, without limitation, any person who is the owner, lessee or person in the control of any property located in the unincorporated area of Ventura County, shall in the unincorporated area of Ventura County maintain, handle, retain or store, or shall permit, consent, or allow any other person to maintain, handle, retain or store, any solid waste in any manner or under any circumstance where said material or any element, constituent, part or portion thereof, whether or not hazardous:

(a) is carried or deposited by the natural elements, such as wind or rain, onto or into any public street, sidewalk, waterway, or other public property;
(b) is carried or deposited by the natural elements, such as wind or rain, onto or into any private property owned, leased or controlled by another person;
(c) harbors or breeds any vectors including rats, other rodents, flies or harmful insects; or,
(d) pollutes surface or groundwater.

Notwithstanding the definition of solid waste in the Act, which limits such material to waste that has been discarded, for purposes of this Section, solid waste shall also include any waste whether or not such waste has yet to be discarded, intentionally or otherwise, by its owner.

(Secs. 4706-4718 intentionally omitted, reserved for future use.)

Sec. 4719 - NUISANCES WITH RESPECT TO SOLID WASTE - No person, including, without limitation, any person who is the owner, lessee or person in the control of any property in the unincorporated area of Ventura County or who is the owner or person in the control of the operations of any collector, solid waste facility or any solid waste chipping and grinding operation located in the unincorporated area of Ventura County, shall maintain, retain, handle, or store, or shall permit, consent or allow any other person to maintain, retain, handle or store, any solid waste or any element, constituent or part thereof, whether or not hazardous, in any manner or under any circumstance that constitutes a public nuisance. For purposes of this Section, "public nuisance" means in a manner that:

(a) is injurious to human health or safety or that poses or threatens to pose any danger to health and safety of the public, the environment or any flora or fauna, or that is offensive or annoying to any of the human senses and

interferes with the comfortable enjoyment of any property, and,

(b) affects an entire community or neighborhood or any significant number of persons, although the adverse affect inflicted upon such persons may be unequal.

Any violation of Sections 4704 or 4705 shall constitute a nuisance per se. Notwithstanding the definition of solid waste in the Act, which limits such material to waste that has been discarded, for purposes of this Section, solid waste shall also include any waste whether or not such waste has yet to be discarded, intentionally or otherwise, by its owner.

Sec. 4720 - CRIMINAL SANCTIONS - Any person who violates Sections 4702, 4704, 4705 or 4719, or any provision thereof is guilty of a misdemeanor/infraction as specified in Section 13-1 of the Ventura County Ordinance Code, and upon conviction thereof shall be punishable in accordance with Section 13-2 of the Ventura County Ordinance Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of Section 4702, 4704, 4705 or 4719 is committed, continued, or permitted by such person and shall be punishable thereof as provided in Section 13-2 of the Ventura County Ordinance Code.

Sec. 4721- LIABILITY FOR REMEDIATION AND REMEDIAL COSTS GENERALLY - Any person who violates any provision of this Article, or who violates or fails to satisfy an enforcement order which has become final in accordance with the Act, shall with respect to any property affected thereby, pay the County's remedial costs, if any, and shall be further obligated, if ordered by the Division or hearing officer, to:

(a) prepare and pay for the preparation of a site characterization study to determine the scope and type of any damage;
(b) prepare and pay for the preparation of a plan for remedial and abatement action as to any damage;
(c) implement and pay for the implementation of such plan for remedial and abatement action as to any damage; and,
(d) reimburse the Division or County for remedial costs, if any, including those incurred for review or preparation of a site characterization study, review or preparation of a plan for remedial and abatement action and the review and implementation of a plan for remedial and abatement action as to any damage.

Sec. 4722 - PROCEDURES FOR CIVIL ENFORCEMENT GENERALLY –

(a) In addition to any criminal sanctions that may be applicable, the Division may enforce this Article, including Section 4721, or may enforce an enforcement order which has become final under the Act, in the following ways:

(1) The Division may file an action in superior court against any person who has violated this Article or who has violated or failed to comply

with a final enforcement order. The action may seek, without limitation, injunctive or any other form of equitable relief to stop the violation, enforce the order, remediate any damage, and recover the Division's or County's remedial costs or fees.

(2) The Division may commence an abatement proceeding in accordance with Section 4724 against any person who has violated this Article or who has violated or failed to comply with a final enforcement order, provided however, that if the Division seeks to assess a lien against the property for reimbursement of remedial costs, the Division shall proceed in accordance with the general abatement procedure found in Division 13 of the Ventura County Ordinance Code (commencing with Section 13000 et. seq.).

(b) Notwithstanding subdivision (a) (1) of this Section, if an abatement proceeding is commenced under subdivision (a) (2) of this Section, the Division shall not thereafter file an action in the superior court with respect to the abatement until the abatement proceeding is terminated or a final abatement order has been issued.

(c) Notwithstanding subdivision (b) of this Section, if the Director finds there is an imminent threat to the public health and safety, the Division may file an action in superior court to obtain injunctive or equitable relief with respect thereto at any time. In such case the court may issue injunctive or other equitable relief pending or in lieu of the hearing officer's determination in any abatement proceeding.

Sec. 4723 - **INSPECTION** - The Division may enter upon and inspect any property to enforce this Article or to enforce the Act. The Division may enter upon property open to the general public by way of any route normally accessible to visitors, tradespeople, or other persons having legitimate business with the owners or occupants thereof, in order to seek consent for the inspection. The Division shall conduct such inspection with either the consent of the owner or other person in possession of such property, or with an inspection warrant or search warrant.

Sec. 4724 - **ABATEMENT ORDERS** - In addition to any other remedies at law, the Division may issue an abatement order pursuant to this Article to any person who is violating or has violated any provision of this Article, or who violates or fails to satisfy any enforcement order which has become final in accordance with the Act. The Division shall serve the abatement order on the person to whom the order is directed and, if property is to be abated, on the owner and, if known, the person in possession of such property.

Sec. 4724-1 - **General Contents of Order** - In addition to identifying the persons to be served, an abatement order shall describe the time, place and nature of the wrongful actions or failure to act and shall state the ordinance, applicable law or

order that is at issue. An abatement order may contain a specified time for corrective action. The Division may amend any abatement order at any time the Director deems appropriate.

Sec. 4724-2 - Studies and Plans - In accordance with Section 4721, an abatement order may also require other specific terms for abatement, including without limitation that the responsible persons submit to the Division by a specified date a proposed site characterization study or plan for remedial and abatement action, or both. If such information is submitted and if the Director determines the study or plan is satisfactory, the Director shall approve the same and the Division shall provide service of notice of approval to all persons who were served with the abatement order. If the Director disapproves of the study or plan, the Division shall provide service of notice of disapproval to all persons who were served the abatement order. In such case the persons who were served the abatement order shall submit a new study or plan consistent with the requirements of the Director.

Sec. 4724-3 - Remediation - An abatement order may also specify a schedule for implementation of a plan for remedial and abatement action. If, following implementation, the Director determines the plan has been satisfactorily implemented, the Director shall approve the same and the Division shall provide service of notice of such approval to the persons who were served with the abatement order. If the Director determines the plan has not been satisfactorily implemented, the Division shall provide service of notice of disapproval to all persons who were served with the abatement order. In such case the persons who were served with the abatement order shall provide additional remediation consistent with the requirements of the Director.

Sec. 4724-4 - Appeal - If any person upon whom the Division served an abatement order seeks to contest such order for any reason, or seeks to contest the scope of an abatement order including any required site characterization study or plan for remedial or abatement action, or the Director's decision to disapprove a site characterization study, plan for remedial or abatement action or the implementation of a remedial or abatement action, such person shall appeal the order or action by service of a petition for hearing with the Division in accordance with Section 4730. Service of such petition on the Division shall be made no later than fifteen (15) days after service on such person of the contested abatement order or notice of the Director's determination. If a petition for a hearing is timely served, the abatement order shall be stayed until the hearing officer issues a final ruling in accordance with Section 4730-12, provided however, that pursuant to Section 4722 (c) a court may issue injunctive or equitable relief to prevent an imminent threat to the public health and safety pending a final ruling from the hearing officer. The failure of such person to serve the petition for hearing on a timely basis shall constitute a failure to exhaust administrative remedies and a waiver of any objection and shall preclude the person from further contesting such action and in such case the

Division or Director's action, including the abatement order or any other determination by the Director, shall be final upon the expiration of the fifteen day period within which a petition for hearing could have been served. As to any enforcement order that has become final under the Act, such order shall be conclusively presumed to be valid, enforceable and binding in any subsequent hearing pursuant to Section 4730.

Sec. 4725 - **ABATEMENT BY THE DIVISION** - The Division may abate the conditions of any property that result from any violation of this Article or the Act or any regulation or standard adopted thereunder or any violation or failure to satisfy an enforcement order. As a part of such abatement, whether summary abatement or otherwise, the Division may prepare or cause to be prepared a site characterization study, a plan of remedial and abatement action and implement or cause to be implemented such plan.

Sec. 4725-1- **Abatement Generally** - If an enforcement order has become final in accordance with the Act, or if an abatement order has become final in accordance with this Article, and if the person to whom such order was issued has failed to obey the enforcement order or abatement order within the time specified therein, the Division may take or cause to be taken whatever abatement action is necessary. In such case, prior to commencement of abatement at the subject property, the Division shall provide service of notice of its intention to abate the conditions to each person identified in Section 4724.

Sec. 4725-2 - **Summary Abatement** - Notwithstanding any other provision of this Article, if at any time the Director determines that the condition of solid waste on any property poses or threatens to pose an imminent danger to the public health and safety, the Director may order that the Division proceed with summary abatement. In such case the Division may take or cause to be taken whatever action is necessary to abate such conditions without any prior hearing before a court of law or the hearing officer unless a court should order otherwise. Prior to commencing summary abatement, the Division shall, if practical, serve on the persons identified in Section 4724 notice of its intention to proceed with summary abatement.

Sec. 4725-3 - **Appeal as to Remedial Costs** - The Division may recover its remedial costs associated with its abatement from any person liable under Section 4721 by service of notice of its claim for such costs on each such person and if such person does not timely appeal the matter to the hearing officer in accordance herewith, the Division may file an action in the superior court to obtain a money judgment for such costs against such person. Any person upon whom the Division served such claim may contest the reasonableness of the remedial costs in court or, in the alternative, may appeal the claim to the hearing officer by providing service of a petition for hearing upon the Division within fifteen (15) days after the Division's service of the claim on such person. If appealed to the hearing officer, the hearing officer's ruling shall become binding upon the Division and the person who served a petition for hearing in an amount

determined by the hearing officer, subject to court review of the ruling in accordance with Section 4730-13. Once the hearing officer's ruling is final or, if appealed, the court has affirmed the hearing officer's ruling in any amount, the Division may obtain a judgment from the superior court in the amount affirmed.

Sec. 4726 - NOTICE OF VIOLATION - In addition to any other remedies, the Division may issue a notice of violation to any person who is violating any provision of this Article, or who violates or fails to satisfy any enforcement order which has become final in accordance with the Act. A notice of violation shall identify the person, if known, committing the wrongful actions or failure to act; describe the time, place and nature of the pertinent activities; state the ordinance, applicable law or order that has been violated; and, identify the owner and, if known, the person in possession of the property, if any, where the violation is occurring or has occurred. The Division may issue a notice of violation by service of the notice on the persons identified in the notice. A notice of violation may contain a specified time for corrective action. A notice of violation shall not be appealable.

Sec. 4727 - NOTICE OF NONCOMPLIANCE - If at any time the Division determines that on or at any property there is an ongoing violation of any provision of this Article, or there is an ongoing violation or failure to satisfy an enforcement order, or an abatement order issued by the Division has not been implemented, the Division may serve notice thereof on the owner and, if known, the person in the possession of the property that the Division intends to identify in recording with the Office of the County Recorder a notice of noncompliance as to the property, provided the violation is not corrected or the remediation is not implemented within the time specified in such notification.

Sec. 4727-1 - Contents of Notice of Noncompliance - The notice of noncompliance shall identify the Office of the County Recorder, provide the legal description of the property, summarize the nature of the violation or failure to act and specify the laws, regulations, standards or ordinances that has been violated. The Division shall serve the notice of noncompliance on each person identified in Section 4727.

Sec. 4727-2 - Release of Notice - The Division shall record a release of notice of noncompliance with the County Recorder when it is determined that the violation has been corrected.

Sec. 4727-3 - Appeal - Any person who was served with the notice of noncompliance or who may subsequently be an owner or be in possession of property that is subject to a recorded notice of noncompliance may appeal the Division's action to record the notice of noncompliance or to refuse the recording of a release of notice of noncompliance by service on the Division of a petition for hearing in accordance with Section 4730. Said service may be made at any time that such notice of noncompliance remains recorded. Any such person shall only be entitled to one hearing before the hearing officer unless it is shown that there are changed circumstances.

(Sec. 4728 and 4729 intentionally omitted, reserved for future use.)

Sec. 4730 - HEARING OFFICER AUTHORITY AND HEARING PROCEDURE - Any hearing conducted before the hearing officer pursuant to this Article shall be conducted in accordance with this Section and its Subsections.

Sec. 4730-1 - Scope of Hearing Officer Authority - The hearing officer shall have the authority to determine any issue for which appeal to the hearing officer is allowed by any section of this Article. The hearing officer may provide whatever remedy the hearing officer deems appropriate, including without limitation to affirm actions of the Division or Director, modify such actions or reverse such actions.

Sec. 4730-2 - Petition for Hearing - Any person who is entitled to a hearing under this Article and who seeks to appeal shall request a hearing by service of a petition for hearing on the Division within the time required by the pertinent section of this Article. The Division shall prepare a form for such petition and shall make such form available to anyone on request. The petition shall state the name and address of petitioner and shall further state the name and address of any other person whose rights will be or may be affected by the proceedings, including without limitation the owner and operator of any solid waste facility, collector, solid waste chipping and grinding operation or property affected thereby. The petition shall briefly state the material facts at issue, the remedy sought and shall have attached any notice of noncompliance, abatement order, remedial cost claim or any other notification by the Division that is at issue.

Sec. 4730-3 - Notice of Hearing - After a timely petition for hearing is served, the Division shall serve notice of the hearing which shall be scheduled to commence no later than 120 days after service of the petition for hearing on the Division. The notice of hearing shall state: (a) the nature of the proceeding; (b) the date, time and place of the hearing; and, (c) the name of the hearing officer.

Sec. 4730-4 - Service of Notice of Hearing - The Division shall serve notice of the hearing, a copy of the petition for hearing, and a copy of this Section on all persons named in the petition that are affected thereby, on any person that requests such notice, and on any other person whose rights the Division believes may be affected thereby, including without limitation any person who is owner of record of any facility or property affected by the proceedings. The Division shall complete such service of notice upon all such persons no later than thirty (30) days prior to the date scheduled for commencement of the hearing. The Division shall also cause the notice of the hearing to be published in a newspaper of general circulation at least one time not less than twenty (20) days before commencement of the hearing. The published notice shall state that copies of the petition for hearing and this Section are available for public review at the Division. Attendance at the hearing by any person shall constitute a waiver of any defective notice with respect to such person. Failure of any person who was

properly served with notice to appear at the hearing shall constitute a waiver of such person's right to be heard.

Sec. 4730-5 - **Hearing Generally** - The hearing shall be public and shall be held before the hearing officer at the date, time and place stated in the notice of hearing or at such other date, time and place as may be ordered by the hearing officer at the time of the hearing. The hearing officer may continue any hearing as may be reasonably necessary for the convenience of the hearing officer, witnesses, the Division or any other person entitled to receive notice of the hearing. Any new time and place for the hearing shall be publicly announced at the time and place of the noticed hearing. No further notice need be published or served upon anyone as to such continuances. Any person affected by the proceedings may be heard and be represented by counsel. The hearing officer may consolidate several petitions for a hearing into one hearing if the petitions relate to the same factual issues, the same collector, the same solid waste facility, the same solid waste chipping and grinding operation or the same property.

Sec. 4730-6 - **Evidence** - The hearing officer shall require that all live testimony at the hearing be taken under oath if requested by the Division or any affected person. The hearing officer shall have the power to administer oaths or affirmations and to certify official acts. The hearing officer may permit testimony by affidavit or declaration if the person providing such testimony is made available by subpoena or otherwise for cross examination where requested by any affected person. The hearing officer may allow any testimony to be given in informal narrative style. The Division and any affected person shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any relevant issue, even though such matter was not covered on direct examination, and to impeach any witness, regardless of whether that person first called the witness to testify. Any relevant evidence shall be admissible if it is the sort of evidence upon 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 would make improper the admission of such evidence in a civil action. Hearsay evidence, including without limitation any report by the Division, shall be admissible for any purpose but shall not be sufficient itself to support a finding on a material issue if there is conflicting evidence unless, in light of that evidence, the hearing officer determines that the hearsay evidence is trustworthy. Either before or after submission of the case for decision, the hearing officer may take official notice of any generally accepted technical or scientific matter and of any fact which may be judicially noticed by the courts of this state. The Division and any affected person at the hearing shall be informed of any matters to be officially noticed. Upon request, the Division and any affected person at the hearing shall be given reasonable opportunity on request to refute any officially noticed matters.

Sec. 4730-7 - Subpoena Power - At the request of the Division or any affected person, the hearing officer shall issue subpoenas and subpoenas duces tecum for attendance of witnesses and production of documents at the hearing. Compliance with the provisions of section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. Either before or after the hearing has commenced, the hearing officer may also issue subpoenas and subpoenas duces tecum as the hearing officer deems appropriate.

Sec. 4730-8 - Contempt - If any person disobeys or refuses to respond to a subpoena or subpoena duces tecum, or refuses to take the oath or affirmation of a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing, the hearing officer may certify the facts to the superior court for a contempt proceeding. The court shall thereupon issue an order directing the person to appear before the court and show cause why he should not be punished for contempt. The order and a copy of the certified statement shall be personally served on the person against whom contempt has been charged. The same proceeding shall be held, the same penalties may be imposed and the person charged may purge himself of the contempt in the same way as in the case of a person who has committed a contempt in a trial of a civil action before the superior court.

Sec. 4730-9 - Record - The Division shall record the hearing either on a recording device or by use of a certified court reporter and shall make the recording or transcript available to any person upon request. The Division shall provide a certified copy of the transcript or recording, or a transcript prepared therefrom, to any person who requests it and who pays to the Division the cost of making and certifying copy and, in addition, the cost of preparing and certifying the transcript, if the transcript has not already been prepared.

Sec. 4730-10 - Ruling - At the conclusion of the hearing or within a reasonable time thereafter, the hearing officer shall issue a written ruling on the factual and legal issues presented. The ruling shall be supported by the weight of the evidence presented at the hearing. The hearing officer may decide the issues based upon the Division's written report standing alone if the person that petitioned for a hearing fails to appear at the time of the hearing and no other affected person appears to present evidence. The ruling shall include the remedy, if any, that is ordered by the hearing officer.

Sec. 4730-11 - Service of Ruling - The Division shall promptly serve the hearing officer's ruling on each person who was entitled to be served with notice of the hearing and any person requesting a copy in writing. Said findings and ruling need not be published.

Sec. 4730-12 - Finality of Ruling - The hearing officer's ruling shall be final upon the date of service of the ruling and, subject to judicial review in

accordance with Section 4730-13, shall be binding on the parties. If the ruling is a monetary award that has been properly appealed to superior court in accordance with Section 4730-13, the award shall not be enforced pending appeal. All other rulings by the hearing officer may be enforced immediately after they become final unless the superior court grants a stay or injunctive relief that prevents or limits enforcement thereof.

Sec. 4730-13 - **Appeal** - Any affected person may appeal the ruling of the hearing officer by filing in the superior court a petition for writ of mandate pursuant to section 1094.5 of the Code of Civil Procedure. Any such petition shall be filed with the court no later than thirty (30) days after the hearing officer's ruling has become final or the appeal shall be barred. A writ of mandate proceeding shall be the aggrieved person's exclusive appellate remedy.

This ordinance shall take effect 30 days after adoption and shall become operative on July 1, 2002.

PASSED AND ADOPTED this 16th Day of April, 2002, by the following vote:

AYES: Supervisors Bennett, Schillo, Long, Mikels and Flynn.

NOES: None.

ABSENT: None.

John K. Flynn

CHAIR, BOARD OF SUPERVISORS

ATTEST:

Richard D. Dean, County Clerk,
County of Ventura, State of
California, and ex officio Clerk
of the Board of Supervisors thereof.

By: Roberta Rodriguez
Deputy Clerk

EXHIBIT 2

California Public Resources Code
and
California Code of Regulations, Title 14

relevant sections of the codes cited

PUBLIC RESOURCES CODE SECTION 40000-40003

40000. The Legislature hereby finds and declares all of the following:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount that is expected to grow if existing solid waste policies are continued. This amounts to more than 1,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized countries.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990s, there presently is no coherent state policy to ensure that the state's solid waste is managed in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

(e) The reduction, recycling, or reuse of solid waste generated in the state will, in addition to preserving landfill capacity in California, serve to conserve water, energy, and other natural resources within this state, and to protect the state's environment.

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the 25-percent and 50-percent diversion requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

40002. As an essential part of the state's comprehensive program

for solid waste management, and for the preservation of health and safety, and the well-being of the public, the Legislature declares that it is in the public interest for the state, as sovereign, to authorize and require local agencies, as subdivisions of the state, to make adequate provision for solid waste handling, both within their respective jurisdictions and in response to regional needs consistent with the policies, standards, and requirements of this division and all regulations adopted pursuant to this division. The provisions of this division which authorize and require local agencies to provide adequate solid waste handling and services, and the actions of local agencies taken pursuant thereto, are intended to implement this state policy.

40003. Nothing in this division abrogates, limits, or otherwise affects the duties of the Department of Conservation under the California Beverage Container Recycling and Litter Reduction Act, Division 12.1 (commencing with Section 14500).

PUBLIC RESOURCES CODE SECTION 40050-40063

40050. This division shall be known and may be cited as the California Integrated Waste Management Act of 1989.

40051. In implementing this division, the board and local agencies shall do both of the following:

(a) Promote the following waste management practices in order of priority:

(1) Source reduction.

(2) Recycling and composting.

(3) Environmentally safe transformation and environmentally safe land disposal, at the discretion of the city or county.

(b) Maximize the use of all feasible source reduction, recycling, and composting options in order to reduce the amount of solid waste that must be disposed of by transformation and land disposal. For wastes that cannot feasibly be reduced at their source, recycled, or composted, the local agency may use environmentally safe transformation or environmentally safe land disposal, or both of those practices.

40052. The purpose of this division is to reduce, recycle, and reuse solid waste generated in the state to the maximum extent feasible in an efficient and cost-effective manner to conserve water, energy and other natural resources, to protect the environment, to improve regulation of existing solid waste landfills, to ensure that new solid waste landfills are environmentally sound, to improve permitting procedures for solid waste management facilities, and to specify the responsibilities of local governments to develop and implement integrated waste management programs.

40053. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of a city, county, or district to impose and enforce reasonable land use conditions or restrictions on solid waste management facilities in order to prevent or mitigate potential nuisances, if the conditions or restrictions do not conflict with or impose lesser requirements than the policies, standards, and requirements of this division and all regulations adopted pursuant to this division.

40054. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of the Attorney General, on the request of the board, the state water board, a regional water board, or upon his or her own motion, to bring an action in the name of the people of the State of California to enjoin any health hazard, pollution, or nuisance.

40055. (a) This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer, including, but not limited to, the exercise by the state water board or the regional water boards of any of their powers and duties pursuant to Division 7 (commencing with Section 13000) of the Water Code, the exercise by the Department of Toxic Substances Control of any of its powers and duties pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, and the exercise by the State Air Resources Board or any air pollution control district or air quality management district of any of its powers and duties pursuant to Division 26 (commencing with Section 39000) of the Health and Safety Code.

(b) The exercise of authority under this division, including, but not limited to, the adoption of regulations, plans, permits, or standards or the taking of any enforcement actions shall not duplicate or be in conflict with any determination relating to water quality control made by the state water board or regional water boards, including requirements in regulations adopted by or under the authority of the state water board.

(c) Any plans, permits, standards, or corrective action taken under this division shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7, of the Water Code and the state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code existing at the time of the action or proposed action.

40056. This division, or any rules or regulations adopted pursuant thereto, is not a limitation on the right of any person to commence and maintain at any time any appropriate action for relief against a nuisance as defined in the Civil Code.

40057. Each county, city, district, or other local governmental agency which provides solid waste handling services shall provide for those services, including, but not limited to, source reduction, recycling, composting activities, and the collection, transfer, and disposal of solid waste within or without the territory subject to its solid waste handling jurisdiction.

40058. The solid waste handling services shall be provided for by one or any combination of the following:

(a) The furnishing of the services by the local agency itself.

(b) The furnishing of the services by another local agency.

(c) The furnishing of the services by a solid waste enterprise.

40059. (a) Notwithstanding any other provision of law, each county, city, district, or other local governmental agency may determine all of the following:

(1) Aspects of solid waste handling which are of local concern,

including, but not limited to, frequency of collection, means of collection and transportation, level of services, charges and fees, and nature, location, and extent of providing solid waste handling services.

(2) Whether the services are to be provided by means of nonexclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding, or if, in the opinion of its governing body, the public health, safety, and well-being so require, by partially exclusive or wholly exclusive franchise, contract, license, permit, or otherwise, either with or without competitive bidding. The authority to provide solid waste handling services may be granted under terms and conditions prescribed by the governing body of the local governmental agency by resolution or ordinance.

(b) Nothing in this division modifies or abrogates in any manner either of the following:

(1) Any franchise previously granted or extended by any county or other local governmental agency.

(2) Any contract, license, or any permit to collect solid waste previously granted or extended by a city, county, or a city and county.

40059.1. (a) The Legislature hereby finds and declares both of the following:

(1) In 1989, the Legislature enacted this division as the California Integrated Waste Management Act of 1989. One of the key provisions of this division is that each local agency has the responsibility for diverting 50 percent of all solid waste generated within the local agency by January 1, 2000.

(2) The public policy objective of the Legislature in enacting this section is to ensure that those local agencies that require an indemnity obligation retain their responsibility for implementing the diversion requirements of this division.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Indemnity obligation" means any indemnity obligation directly or indirectly related to the failure of a local agency to meet the solid waste diversion requirements imposed by Chapter 6 (commencing with Section 41780) of Part 2, that is expressly assumed by, or imposed upon, the solid waste enterprise, whether pursuant to ordinance, contract, franchise, license, permit, or other entitlement or right, for the benefit of the local agency.

(2) "Local agency" means any county, city, city and county, district, regional agency as defined in Section 40181, or other local government agency.

(c) Any provision, term, condition, or requirement contained in any ordinance, contract, franchise, license, permit, or other entitlement or right adopted, entered into, issued, or granted, as the case may be, by a local agency for solid waste collection and handling, including the recycling, processing, or composting of solid waste, or in any request for bids or proposals in connection with any such contract or franchise, that authorizes or requires the imposition of an indemnity obligation, shall, notwithstanding any such provision, term, condition, or requirement, be subject to all of the following restrictions:

(1) An indemnity obligation shall not be enforceable if the board imposed penalty is based solely upon the failure of the local agency to establish and maintain a source reduction and recycling element

pursuant to Chapter 2 (commencing with Section 41000) of Part 2, Chapter 3 (commencing with Section 41300) of Part 2, or Section 41750.1, as the case may be.

(2) Any board imposed penalty based upon a local agency's failure to meet the solid waste diversion requirements imposed by Chapter 6 (commencing with Section 41780) of Part 2, resulting in whole or in part from the solid waste enterprise's breach of contract or noncompliance with any other authorization, shall be apportioned in accordance with the percentage of fault of the local agency and the solid waste enterprise.

(3) For purposes of this section, a solid waste enterprise is not liable for the indemnity obligation to the extent that the solid waste enterprise's breach or noncompliance resulted from the action or failure to act of the local agency.

(4) No payment required or imposed pursuant to an indemnity obligation, whether required or imposed by ordinance, contract, franchise, license, permit, or other entitlement or right, may exceed that portion of any penalty assessed by the board against the local agency that was caused by the solid waste enterprise's breach or noncompliance of an express obligation or requirement.

(5) No indemnity obligation shall be enforceable against a solid waste enterprise until the local agency has affirmatively sought, in good faith, all administrative relief available pursuant to Chapter 6 (commencing with Section 41780) and Chapter 7 (commencing with Section 41800) of Part 2, unless the local agency demonstrates good cause, based on substantial evidence in the record, for not pursuing that administrative relief. The solid waste enterprise shall cooperate, in good faith, with the local agency seeking that administrative relief and shall provide in writing to the local agency all known defenses to the imposition of penalties.

(d) Nothing in this section shall be construed to preclude either party from seeking any other remedy under law or equity.

(e) The provisions of this section are not subject to waiver, and any attempted waiver shall be null and void as against public policy.

(f) This section is not intended to do any of the following:

(1) Add to or expand the authority of local agencies to determine aspects of solid waste collection and handling pursuant to Section 40059.

(2) Alter the authority of business entities to collect or process materials that are not solid waste.

(3) Affect any contract right existing on the effective date of this section.

40060. (a) Notwithstanding any other provision of law, a regional water board shall not issue a waste discharge permit for a new landfill, or a lateral expansion of an existing landfill, which is used for the disposal of nonhazardous solid waste if the land has been primarily used at any time for the mining or excavation of gravel or sand.

(b) A regional water board, in a public meeting, may grant a variance from subdivision (a) if the applicant demonstrates and the regional water quality control board determines that the discharges to a new facility or expansion of an existing facility during its operation and postclosure period will not pollute or threaten to pollute the waters of the state. In deciding whether to grant a variance, the regional water board shall consider, among other factors, site characteristics, including permeability and transmissivity of the underlying soils and depth to groundwater. For

the purpose of this section, "groundwater" means the uppermost aquifer usable for beneficial purposes.

(c) Nothing in this section precludes any local jurisdiction from exercising any power which it has pursuant to any other provision of law.

(d) The following definitions govern the construction of this section:

(1) "Landfill used for the disposal of nonhazardous solid waste" means a disposal site regulated by a regional water board as a Class III landfill pursuant to Sections 2533 and 2541 of Title 23 of the California Code of Regulations.

(2) "Lateral expansion" means a new or expanded waste management unit which is not authorized on January 1, 1989, under existing waste discharge requirements issued pursuant to Division 7 (commencing with Section 13000) of the Water Code and an existing solid waste facility permit issued pursuant to this title. For purposes of subdivision (f), "lateral expansion" does not include a new or expanded waste management unit for which waste discharge requirements were issued by a regional water board before January 1, 1989, but were subject to review after that date pursuant to Section 13320 of the Water Code.

(e) The regional water board may hold a single hearing for purposes of granting a variance pursuant to subdivision (b) and establishing waste discharge requirements.

(f) Notwithstanding subdivision (b), a regional water board shall not grant a variance from subdivision (a) if the variance is for a new landfill, or a lateral expansion of an existing landfill, located within the boundaries of the Main San Gabriel Groundwater Basin. For purposes of this subdivision, the boundaries of the Main San Gabriel Groundwater Basin are the boundaries described in Exhibit A of the judgment in Upper San Gabriel Valley Municipal Water District v. City of Alhambra, et al., Case Number 924128 of the Superior Court for the County of Los Angeles.

40061. (a) Notwithstanding Section 40059, every local agency which does not directly charge residential households a fee for the collection, transportation, and disposal of solid waste and every local agency which directly charges residential customers a fee which represents less than 90 percent of the average cost of collecting, transporting, and disposing of residential solid waste shall, at least once every three months, arrange to inform all residential households of all of the following:

(1) The average monthly volume of solid waste produced by each residential household.

(2) The total estimated monthly cost to the local agency to collect, transport, and dispose of all solid waste produced by residential households.

(3) The average monthly cost to the local agency to collect, transport, and dispose of solid waste produced by each residential household.

(b) For the purposes of this section, "residential household" means those single and multifamily residential units which are not charged a periodic fee for the collection, transportation, and disposal of solid waste or which are assessed a periodic fee which represents less than 90 percent of the local agency's total cost of providing these services.

(c) The notification provided under subdivision (a) may, not more than twice in any calendar year, be made by publication in a

newspaper of general circulation in the county in which the local agency is located.

(d) Unless notification is made by publication, when possible, the notification provided under subdivision (a) shall be distributed by each local agency to residential households in a manner that results in no distribution costs to the local agency in excess of distribution costs otherwise incurred for other purposes.

40062. (a) Upon the request of any person furnishing any report, notice, application, plan, or other document required by this division, including any research or survey information requested by the board for the purpose of implementing its programs, neither the board nor an enforcement agency, in accordance with subdivisions (c) and (d), shall make available for inspection by the public any portion of the report, notice, application, plan, or other document that contains a trade secret, as defined in subdivision (d) of Section 3426.1 of the Civil Code, that has been identified pursuant to subdivision (b).

(b) Any person furnishing information, as described in subdivision (a), to the board or an enforcement agency pursuant to this division shall, at the time of submission, identify all information which the person believes is a 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.

(c) (1) With regard to information that has been identified as a trade secret pursuant to subdivision (b), the board, upon its own initiative, or upon receipt of a request for public information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, shall determine whether any or all of the information has been properly identified as a trade secret. If the board determines that the information is not a trade secret, the board shall notify the person who furnished the information by certified mail.

(2) The person who furnished the information shall have 30 days from the date of receipt of the notice required by paragraph (1) to provide the board with a complete justification and statement of the grounds on which the trade secret privilege is claimed. The justification and statement shall be submitted to the board by certified mail.

(3) The board shall determine whether the information is protected as a trade secret within 15 days from the date of receipt of the justification and statement or, if no justification and statement is filed, within 45 days from the date of the notice required by paragraph (1). The board shall notify the person who furnished the information and any party who has requested the information pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code of that determination by certified mail. If the board has determined that the information is not protected as a trade secret, this final notice shall also specify a date, not sooner than 15 days from the date of the date of mailing of the final notice, when the information shall be available to the public.

(d) Except as provided in subdivision (c), the board or an enforcement agency may release information submitted and designated as a trade secret only to the following public agencies under the following conditions:

(1) To other public agencies in connection with the responsibilities of the board or an enforcement agency 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) For the purpose of implementing this section, the disclosure of information shall be consistent with Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

40063. At the request of a county with a population of less than 250,000, the board and the state water board may meet with the county to prioritize, through development and joint adoption of a five-year plan, state environmental concerns with regard to solid waste management in relation to the fiscal and staffing constraints on the county.

PUBLIC RESOURCES CODE SECTION 40000-40003

40000. The Legislature hereby finds and declares all of the following:

(a) In 1988, Californians disposed of over 38 million tons of solid waste, an amount that is expected to grow if existing solid waste policies are continued. This amounts to more than 1,500 pounds of waste per person living in the state, more than any other state in the country and over twice the per-capita rate of most other industrialized countries.

(b) Over 90 percent of California's solid waste currently is disposed of in landfills, some of which pose a threat to groundwater, air quality, and public health.

(c) While California will exhaust most of its remaining landfill space by the mid-1990s, there presently is no coherent state policy to ensure that the state's solid waste is managed in an effective and environmentally sound manner for the remainder of the 20th century and beyond.

(d) The amount of solid waste generated in the state coupled with diminishing landfill space and potential adverse environmental impacts from landfilling constitutes an urgent need for state and local agencies to enact and implement an aggressive new integrated waste management program.

(e) The reduction, recycling, or reuse of solid waste generated in the state will, in addition to preserving landfill capacity in California, serve to conserve water, energy, and other natural resources within this state, and to protect the state's environment.

40001. (a) The Legislature declares that the responsibility for solid waste management is a shared responsibility between the state and local governments. The state shall exercise its legal authority in a manner that ensures an effective and coordinated approach to the safe management of all solid waste generated within the state and shall oversee the design and implementation of local integrated waste management plans.

(b) The Legislature further declares that it is the policy of the state to assist local governments in minimizing duplication of effort, and in minimizing the costs incurred, in implementing this division through the development of regional cooperative efforts and other mechanisms which comply with this division.

(c) The Legislature further declares that market development is the key to successful and cost-effective implementation of the 25-percent and 50-percent diversion requirements required pursuant to Section 41780, and that the state must take a leadership role, pursuant to Chapter 1 (commencing with Section 42000) of Part 3, in encouraging the expansion of markets for recycled products by working cooperatively with the public, private, and nonprofit sectors.

40002. As an essential part of the state's comprehensive program

PUBLIC RESOURCES CODE SECTION 40100-40201

40100. Unless the context otherwise requires, the definitions in this article govern the construction of this division.

40105. "Authorized recycling agent" means a person that a local governing body or private commercial entity authorizes or contracts with to collect its recyclable waste material. An authorized recycling agency may be a municipal collection service, private refuse hauler, private recycling enterprise, or private nonprofit corporation or association.

40106. (a) "Biomass conversion" means the controlled combustion, when separated from other solid waste and used for producing electricity or heat, of the following materials:

(1) Agricultural crop residues.

(2) Bark, lawn, yard, and garden clippings.

(3) Leaves, silvicultural residue, and tree and brush pruning.

(4) Wood, wood chips, and wood waste.

(5) Nonrecyclable pulp or nonrecyclable paper materials.

(b) "Biomass conversion" does not include the controlled combustion of recyclable pulp or recyclable paper materials, or materials that contain sewage sludge, industrial sludge, medical waste, hazardous waste, or either high-level or low-level radioactive waste.

(c) For purposes of this section, "nonrecyclable pulp or nonrecyclable paper materials" means either of the following, as determined by the board:

(1) Paper products or fibrous materials that cannot be technically, feasibly, or legally recycled because of the manner in which the product or material has been manufactured, treated, coated, or constructed.

(2) Paper products or fibrous materials that have become soiled or contaminated and as a result cannot be technically, feasibly, or legally recycled.

40110. "Board" means the California Integrated Waste Management Board.

40115. "City" or "county" includes city and county.

40116. "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 waste.

40117. "Gasification" means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity, and that, at minimum, meets all of the following criteria:

(a) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(b) The technology produces no discharges of air contaminants or emissions, including greenhouse gases, as defined in subdivision (g) of Section 42801.1 of the Health and Safety Code.

(c) The technology produces no discharges to surface or groundwaters of the state.

(d) The technology produces no hazardous waste.

(e) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(f) The facility where the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(g) The facility certifies to the board that any local agency sending solid waste to the facility is in compliance with this division and has reduced, recycled, or composted solid waste to the maximum extent feasible, and the board makes a finding that the local agency has diverted at least 30 percent of all solid waste through source reduction, recycling, and composting.

40120. "Designated recycling collection location" means the place where an authorized recycling agent has contracted with either the local governing body or a private entity to pick up recyclable material segregated from other waste material. "Designated recycling collection location" includes, but is not limited to, the curbside of a residential neighborhood or the service alley of a commercial enterprise.

40120.1. "Disposal" has the same meaning as "solid waste disposal" as defined in Section 40192.

40121. "Disposal facility" or "facility" means any facility or location where disposal of solid waste occurs.

40122. "Disposal site" or "site" includes the place, location, tract of land, area, or premises in use, intended to be used, or which has been used, for the landfill disposal of solid wastes. "Disposal site" includes solid waste landfill, as defined in Section 40195.1.

40123. "Disposal site owner" means the person who holds title to

the property used as a disposal site after January 1, 1977.

40124. "Diversion" means activities which reduce or eliminate the amount of solid waste from solid waste disposal for purposes of this division, including Article 1 (commencing with Section 41780) of Chapter 6.

40130. "Enforcement agency" means the local agency designated pursuant to Article 1 (commencing with Section 43200) of Chapter 2 of Part 4 for the purpose of carrying out this division, or the board if no designation of a local agency has been approved by the board.

40131. "Enforcement program" means the regulations and procedures adopted by the board pursuant to Chapter 2 (commencing with Section 43200) of Part 4.

40131.5. "Federal act" means the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

40135. "Fund" means the Integrated Waste Management Fund, which is hereby created in the State Treasury. Any reference in this division or any other provision of law to the Solid Waste Management Fund shall mean the Integrated Waste Management Fund.

40135.1. "Account" means the Integrated Waste Management Account created in the fund pursuant to Section 48001.

40140. "Hazard" includes any condition, practice, or procedure which is or may be dangerous, harmful, or perilous to employees, property, neighbors, or the general public.

40141. (a) "Hazardous waste" means a waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may do either of the following:

(1) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness.

(2) Pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported, or disposed of, or otherwise managed.

(b) Unless expressly provided otherwise, "hazardous waste" includes extremely hazardous waste and acutely hazardous waste.

40148. "Large state facility" means those campuses of the California State University and the California Community Colleges, prisons within the Department of Corrections, facilities of the State Department of Transportation, and facilities of other state agencies, that the board determines, are primary campuses, prisons, or facilities.

40150. "Local governing body" means the legislative body of the city, county, or special district which has authority to provide solid waste handling services.

40151. "Nondisposal facility" means any solid waste facility required to obtain a permit pursuant to Article 1 (commencing with Section 44001) of Chapter 3 of Part 4, except a disposal facility or a transformation facility.

40160. "Operator" means the person to whom the approval to operate a disposal site, transfer or processing station, or collection system is granted.

40170. "Person" includes an individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.

40171. "Pollution" means the condition caused by the presence in or on a body of water, soil, or air of any solid waste or substance derived therefrom in such quantity, of such nature and duration, or under such condition that the quality, appearance, or usefulness of the water, soil, land, or air is significantly degraded or adversely altered.

40172. "Processing" means the reduction, separation, recovery, conversion, or recycling of solid waste.

40180. "Recycle" or "recycling" means the process 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.

40181. "Regional agency" means an agency formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the

Government Code and Article 3 (commencing with Section 40970) of Chapter 1 of Part 2.

40182. "Regional water board" means a California regional water quality control board.

40183. (a) "Rural city" means either of the following:
(1) A city that has a geographic area of less than three square miles, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.
(2) A city that has a population density of less than 1,500 people per square mile, has a current waste disposal rate of less than 100 cubic yards per day, or 60 tons per day, and is located in a rural area.
(b) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to September 1, 1994.

40184. (a) "Rural county" means any county that has a population of 200,000 or less and is located in a rural area.
(b) For the purposes of this section, Section 40183, and subdivision (d) of Section 40973, "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.
(c) Nothing in this section shall affect any reduction granted to a rural city or rural county by the board pursuant to Section 41787 prior to September 1, 1994.

40190. "Segregated from other waste material" means any of the following:
(a) The placement of recyclable materials in separate containers.

(b) The binding of recyclable material separately from the other waste material.
(c) The physical separation of recyclable material from other waste material.

40190.5. "Sharps waste" means waste generated by a household that includes a hypodermic needle, syringe, or lancet.

40191. (a) Except as provided in subdivision (b), "solid waste" means all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semisolid wastes, and other discarded solid and semisolid wastes.
(b) "Solid waste" does not include any of the following wastes:
(1) Hazardous waste, as defined in Section 40141.

(2) Radioactive waste regulated pursuant to the Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code).

(3) Medical waste regulated pursuant to the Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the Health and Safety Code). Untreated medical waste shall not be disposed of in a solid waste landfill, as defined in Section 40195.1. Medical waste that has been treated and deemed to be solid waste shall be regulated pursuant to this division.

40192. (a) Except as provided in subdivisions (b) and (c), "solid waste disposal" or "disposal" means the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the state.

(b) Except as provided in Part 2 (commencing with Section 40900), for purposes of Part 2 (commencing with Section 40900), "disposal" means the management of solid waste through landfill disposal or transformation at a permitted solid waste facility.

(c) For purposes of Chapters 16 (commencing with Section 42800) and 19 (commencing with Section 42950) of Part 3, Part 4 (commencing with Section 43000), Part 5 (commencing with Section 45000), Part 6 (commencing with Section 45030), and Chapter 2 (commencing with Section 47900) of Part 7, "solid waste disposal" or "disposal" means the final deposition of solid wastes onto land.

40193. "Solid waste enterprise" means any individual, partnership, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing solid waste handling services.

40194. "Solid waste facility" includes a solid waste transfer or processing station, a composting facility, a gasification facility, a transformation facility, and a disposal facility.

40195. "Solid waste handling" or "handling" means the collection, transportation, storage, transfer, or processing of solid wastes.

40195.1. (a) "Solid waste landfill" means a disposal facility that accepts solid waste for land disposal, but does not include a facility which receives only wastes generated by the facility owner or operator in the extraction, beneficiation, or processing of ores and minerals, or a cemetery which disposes onsite only the grass clippings, floral wastes, or soil resulting from activities on the grounds of that cemetery.

(b) For the purposes of Article 3 (commencing with Section 43500) and Article 4 (commencing with Section 43600) of Chapter 2 of Part 4, "solid waste landfill" does not include a facility which receives only nonhazardous wood waste derived from timber production or wood product manufacturing. For the purposes of the fee imposed by Section 48000, facilities which receive only nonhazardous wood waste

derived from timber production or wood product manufacturing shall, notwithstanding Section 48000, pay a quarterly fee to the state board on all solid waste disposed at each disposal site, which does not exceed the amount of the fee due and payable to the state board by those facilities during the 1992 calendar year.

40196. "Source reduction" means any action which causes a net reduction in the generation of solid waste. "Source reduction" includes, but is not limited to, reducing the use of nonrecyclable materials, replacing disposable materials and products with reusable materials and products, reducing packaging, reducing the amount of yard wastes generated, establishing garbage rate structures with incentives to reduce the amount of wastes that generators produce, and increasing the efficiency of the use of paper, cardboard, glass, metal, plastic, and other materials. "Source reduction" does not include steps taken after the material becomes solid waste or actions which would impact air or water resources in lieu of land, including, but not limited to, transformation.

40196.3. "State agency" means every state office, department, division, board, commission, or other agency of the state, including the California Community Colleges and the California State University. The Regents of the University of California are encouraged to implement this division.

40196.5. "State board" means the State Board of Equalization.

40197. "State water board" means the State Water Resources Control Board.

40200. (a) "Transfer or processing station" or "station" includes those facilities 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, and those facilities utilized for transformation.

(b) "Transfer or processing station" or "station" does not include any of the following:

(1) A facility, whose principal function is to receive, store, separate, convert, or otherwise process in accordance with state minimum standards, manure.

(2) A facility, whose principal function is to receive, store, convert, or otherwise process wastes which have already been separated for reuse and are not intended for disposal.

(3) The operations premises of a duly licensed solid waste handling operator who receives, stores, transfers, or otherwise processes wastes as an activity incidental to the conduct of a refuse collection and disposal business in accordance with regulations adopted pursuant to Section 43309.

40201. "Transformation" means incineration, pyrolysis, distillation, or biological conversion other than composting. "Transformation" does not include composting, gasification, or biomass conversion.

PUBLIC RESOURCES CODE SECTION 43020-43035

43020. The board shall adopt and revise regulations which set forth minimum standards for solid waste handling, transfer, composting, transformation, and disposal, in accordance with this division, and Section 117590 of, and Chapter 6.5 (commencing with Section 25100) of Division 20 of, the Health and Safety Code. The board shall not include any requirements that are already under the authority of the State Air Resources Board for the prevention of air pollution or of the state water board for the prevention of water pollution.

43020.1. (a) As part of the existing regulatory review process for regulations adopted pursuant to this article, the board may consider whether the operational requirements that apply to nonhazardous wood waste landfills should differ from the operational requirements that apply to other categories of solid waste landfills, such as those used for the disposal of municipal solid waste. If the board determines that the operational requirements that apply to nonhazardous wood waste landfills should differ from the operational requirements that apply to other categories of solid waste landfills, such as those used for the disposal of municipal solid waste, the board shall revise its regulations accordingly.

(b) For the purposes of this section, "nonhazardous wood waste landfill" means a landfill that exclusively accepts untreated bark, sawdust, shavings, and chips that are the byproducts of primary wood product manufacturing and processes that are not used as raw material and that are destined for disposal. "Nonhazardous wood waste landfill" does not include any landfill that accepts chemically treated or adulterated bark, sawdust, shavings, and chips that are the byproducts of primary wood product manufacturing and processes that are not used as raw material and that are destined for disposal.

(c) Nothing in this section is intended to authorize the board to adopt regulations which are less stringent than those adopted by the Environmental Protection Agency pursuant to Part 256 (commencing with Section 256.01) of Title 40 of the Code of Federal Regulations.

43021. Regulations shall include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities, but shall not include aspects of solid waste handling or disposal which are solely of local concern or which are within the jurisdiction of the State Air Resources Board, air pollution control districts and air quality management districts, or the state water board or regional water boards.

43022. (a) The open burning of solid waste, except for the infrequent burning of agricultural wastes, silvicultural wastes, landclearing debris, diseased trees, or debris from emergency cleanup operations, is prohibited at any solid waste facility.

(b) The owners and operators of solid waste facilities shall comply with subdivision (a) on and after the effective date of the federal regulations set forth in Subpart C (commencing with Section 258.20) of Part 258 of Title 40 of the Code of Federal Regulations.

43030. (a) The board shall adopt regulations that are consistent with Section 40055 governing the monitoring and control of the subsurface migration of landfill gas.

(b) The board shall consult with the state water board, the State Air Resources Board, and the California Air Pollution Control Officers Association to ensure that the regulations do not conflict with any regulations adopted by the state water board and the State Air Resources Board or air pollution control districts and air quality management districts.

(c) The regulations adopted by the board pursuant to subdivision (a) shall establish monitoring and control standards, based on the potential of the waste to generate landfill gas, as determined by the board, and shall require owners and operators of disposal sites or disposal facilities to report monitoring data and to perform, or cause to be performed, site inventories and evaluations of disposal sites or disposal facilities for the subsurface migration of landfill gas.

(d) If an owner or operator of a disposal site or disposal facility is in compliance with requirements of the air pollution control district or the air quality management district within whose jurisdiction the disposal site or disposal facility is located, the owner or operator shall be deemed to be in compliance with this section and with any regulations adopted by the board pursuant to this section. However, owners or operators of disposal sites and disposal facilities shall be required to comply with regulations adopted by the board pursuant to this section, which impose requirements not addressed by the requirements of the air pollution control district or the air quality management district within whose jurisdiction the disposal site or disposal facility is located.

43035. (a) The board, in cooperation with the Office of Emergency Services, shall develop an integrated waste management disaster plan to provide for the handling, storage, processing, transportation, and diversion from disposal sites, or provide for disposal at a disposal site where absolutely necessary, of solid waste, resulting from a state of emergency or a local emergency, as defined, respectively, in subdivisions (b) and (c) of Section 8558 of the Government Code.

(b) The board may adopt regulations, including emergency regulations, necessary to carry out the integrated waste management disaster plan.

PUBLIC RESOURCES CODE SECTION 43100-43103

43100. This chapter shall be known, and may be cited, as the Solid Waste Disposal Regulatory Reform Act of 1993.

43101. The Legislature hereby finds and declares as follows:

(a) The board and the state water board have submitted a report entitled Joint Report: Reforming the California Solid Waste Disposal Regulatory Process, and have recommended legislation to the Governor and the Legislature that identifies areas of regulatory overlap, conflict, and duplication and makes recommendations for change.

(b) The report found that regulatory overlap, conflict, and duplication were evident between the board and the state water board and between the board and local enforcement agencies and that regulatory reform was necessary to streamline the state's solid waste disposal regulatory process. In addition, it was found that a recasting of the solid waste facilities permit was warranted to make more efficient and streamlined the permitting and regulation of solid waste disposal facilities. The report also makes numerous other appropriate recommendations for improving the manner in which the management of solid waste is regulated by the state which require immediate legislative response.

(c) It is, therefore, the intent of the Legislature, in enacting this chapter, and in making the necessary revisions to this division and Division 7 (commencing with Section 13000) of the Water Code by the act enacting this chapter, to accomplish all of the following:

(1) As provided by Sections 40054 and 40055, the board, the state water board, and the regional water boards shall retain their appropriate statutory authority over solid waste disposal facilities and sites. A clear and concise division of authority shall be maintained in both statute and regulation to remove all areas of overlap, duplication, and conflict between the board and the state water board and regional water boards, or between the board and any other state agency, as appropriate.

(2) The state water board and regional water boards shall be the sole agencies regulating the disposal and classification of solid waste for the purpose of protecting the waters of the state, consistent with Section 40055, and the board and the certified local enforcement agencies shall regulate all other aspects of solid waste disposal within the scope of their appropriate regulatory authority.

(3) To effectuate that clear division of authority, the board and the state water board shall develop one consolidated set of solid waste disposal facility regulations where distinct chapters are written and implemented by the appropriate agency, and one consolidated permit application, including one technical report to incorporate the requirements of both the solid waste facilities permit and waste discharge requirements.

(4) The process and timeframe for the review and approval of the consolidated application shall be revised to allow, to the greatest extent feasible, for the concurrent development and review of the waste discharge requirements and the solid waste facilities permit. The intent of this permit streamlining effort is to shorten the

43222. Any fees or charges imposed pursuant to this part by any enforcement agency shall bear a direct relationship to the reasonable and necessary cost, as determined by the enforcement agency, of providing the efficient operation of the activities or programs for which the fee is assessed.

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overall timeframe for processing a permit and to accommodate concurrent reviews by the local enforcement agency and the regional water boards within a set timeframe.

(5) Any details of a concurrent permit approval process shall be worked out in an implementation plan that is developed jointly by the board and state water board with input from interested parties.

(6) If practicable, joint inspections of facilities shall be conducted by the board, regional water boards, and local enforcement agencies, and inspection reports shall be shared with any other affected state or local agency.

(7) The closure and postclosure maintenance requirements of the board and the state water board for solid waste landfills shall be combined into one set of consolidated regulations which require one closure and postclosure maintenance plan to be prepared for each solid waste landfill.

(8) A clear and concise division of responsibilities shall be maintained to minimize overlap and duplication of permitting, inspection, and compliance duties between the board and certified local enforcement agencies. The board's primary role in regard to permitting and compliance shall be to provide technical assistance and ongoing training and support to local enforcement agencies, to ensure a local enforcement agency's performance in complying with state minimum standards, and to review permits and other documents submitted by local enforcement agencies for board concurrence or approval. The board shall strengthen the state certification and evaluation program for local enforcement agencies and shall set clear and uniform standards to be met by local enforcement agencies.

(9) The Solid Waste Disposal Site Cleanup and Maintenance Account shall be abolished and a solid waste disposal fee established for deposit in the Integrated Waste Management Account which provides adequate funding for all obligations imposed pursuant to this division. In addition, the costs of the state water board and the regional water boards of regulating solid waste facilities shall be funded from the account.

(10) The Solid Waste Assessment Test Program shall continue operating with resources from the Integrated Waste Management Account until all of the ranked solid waste disposal sites are reviewed.

(11) Responsibility for establishing and enforcing financial responsibility requirements for solid waste landfills, from operation through to cleanup, shall, to the greatest extent practicable and consistent with applicable federal law, be consolidated into one set of regulations administered by the board, in consultation with the state water board.

(12) At a minimum, the financial assurance requirements for closure and postclosure maintenance shall be combined, and the requirements for corrective action and operating liability shall be reviewed, as required by subdivision (b) of Section 43040, to determine if there can be further consolidation of financial assurance requirements for solid waste landfills.

(13) The state water board or the appropriate regional water board shall have access to the financial assurance funds for closure and postclosure activities and to financial assurance funds for corrective action, as necessary, to address water quality problems, if the owner or operator has failed to implement the required closure and postclosure activities or corrective action activities.

(d) It is the intent of the Legislature, in enacting this chapter, and in making the necessary revisions to this division and Division 7 (commencing with Section 13000) of the Water Code, to ensure that the state minimum standards for environmental protection at solid waste disposal facilities are not reduced.

43102. On or before July 1, 1994, the board and the state water board shall jointly develop a plan to implement the changes made to this division and Division 7 (commencing with Section 13000) of the Water Code by the act adding this chapter, and shall make recommendations for additional reforms to both statutory law and regulations, which are consistent with the intent specified in Section 43101. In developing an implementation plan, the board and the state water board shall seek the active participation of representatives of local government, other state agencies, the regulated community, environmental organizations, and interested parties. At a minimum, the implementation plan shall include a work plan for revising regulations, a timeline for implementation, and a description of necessary administrative actions.

43103. The board and the state water board shall adopt regulations for the implementation of the changes required by this chapter, and the act adding this chapter.

PUBLIC RESOURCES CODE SECTION 43200-43222

43200. (a) The board shall prepare and adopt certification regulations for local enforcement agencies. The regulations shall specify requirements that a local agency shall meet before being designated as an enforcement agency. The regulations shall include, but are not limited to, all of the following:

(1) Technical expertise.

(2) (A) Adequacy of staff resources.

(B) For the purposes of this paragraph, the board shall adopt regulations for specified enforcement agencies, as defined in subparagraph (C), which meet all of the following requirements:

(i) The regulations shall not require a specific number of person-hours or staff resources for the performance of duties as a specified enforcement agency.

(ii) The regulations shall establish performance standards for specified enforcement agencies which will provide a comparable level of public health and safety and environmental protection to that required of other local agencies certified pursuant to this article.

(iii) The regulations shall establish procedures to ensure that all duties required of specified enforcement agencies pursuant to this article are actually performed.

(iv) The regulations shall require specified enforcement agency personnel to receive a comparable level of training to that required of personnel employed by other local agencies certified pursuant to this article.

(C) For the purposes of subparagraph (B), "specified enforcement agency" means a local enforcement agency which has a population of less than 50,000 persons.

(3) Adequacy of budget resources.

(4) Training requirements.

(5) The existence of at least one permitted solid waste facility within the jurisdiction of the local agency. For the purposes of this paragraph, "permitted solid waste facility" includes a proposed solid waste facility for which an environmental impact report or negative declaration has been prepared and certified pursuant to Division 13 (commencing with Section 21000) or for which a conditional use permit has been issued by a city or county.

(b) The regulations adopted pursuant to subdivision (a) shall specify four separate types of certifications for which an enforcement agency may be designated, as follows:

(1) Permitting, inspection, and enforcement of regulations at solid waste landfills.

(2) Permitting, inspection, and enforcement of solid waste incinerators.

(3) Permitting, inspection, and enforcement of transfer and processing stations.

(4) Inspection and enforcement of litter, odor, and nuisance regulations at solid waste landfills.

43201. After August 1, 1992, no enforcement agency shall be designated pursuant to this article unless the board determines that

the agency fully complies with one or more of the certification types specified in Section 43200. No enforcement agency shall, after August 1, 1992, exercise the powers of an enforcement agency pursuant to this chapter unless the agency has been certified by the board.

43202. An enforcement agency may be designated by the local governing body and certified by the board to act to carry out this chapter within each jurisdiction. If an enforcement agency is not designated and certified, the board, in addition to its other powers and duties, shall be the enforcement agency within the jurisdiction, subject to the agreement required pursuant to Section 43212.1 or 43310.1.

43203. The designation of the enforcement agency shall be made by any one of the following procedures:

(a) The board of supervisors of the county may designate the enforcement agency to carry out this chapter in the county. The designation is subject to the approval by a majority of the cities within the county which contain a majority of the population of the incorporated areas of the county, except in those counties which have only two cities, in which case the designation shall be subject to approval by the city which contains the majority of the population of the incorporated area of the county.

(b) The county and the cities within the county may enter into a joint exercise of powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purpose of establishing an enforcement agency to carry out this chapter in the jurisdiction of the joint powers agency.

(c) A city council may, at any time, designate an enforcement agency to carry out this chapter in the city.

(d) The board of supervisors of the county may designate an enforcement agency to carry out this chapter in the unincorporated area of the county.

43204. No enforcement agency may exercise the powers and duties of an enforcement agency until the designation is approved by the board. After August 1, 1992, the board shall not approve a designation unless it finds that the designated enforcement agency is capable of fulfilling its responsibilities under the enforcement program and meets the certification requirements adopted by the board pursuant to Section 43200.

43205. (a) Except as provided in subdivision (b), if no enforcement agency is designated and certified, the board shall be the enforcement agency and shall assume all the powers and duties of an enforcement agency pursuant to this chapter, subject to the agreement required pursuant to Section 43212.1 or 43310.1. If the board is the enforcement agency and an enforcement agency is then designated and certified by the board, the board shall continue to act as the enforcement agency for the remainder of the fiscal year, with those responsibilities terminating as of June 30, unless otherwise

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specified by the board.

(b) Notwithstanding subdivision (a), if no enforcement agency is designated and certified for Stanislaus County or Santa Cruz County, the board shall be the enforcement agency, and shall assume all of the powers and duties of an enforcement agency for that county, but shall not be required to enter into the agreement required pursuant to Sections 43212.1 or 43310.1.

(c) The board and the enforcement agency shall not, at any time, impose duplicative fees or charges on the owner or operator of a solid waste facility.

43206. A designation made pursuant to this article may be withdrawn in the same manner in which it was made.

43207. No local governmental department or agency, or any employee thereof, which is the operating unit for a solid waste handling or disposal operation shall be the enforcement agency, or an employee thereof, for the types of solid waste handling or disposal operation it conducts unless authorized by the board to act in that capacity.

43208. Notwithstanding any other provision of law, except as provided in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, and Section 731 of the Code of Civil Procedure, no local governing body may enact, issue, enforce, suspend, revoke, or modify any ordinance, regulation, law, license, or permit relating to a facility that accepts both hazardous wastes and other solid wastes and which meets any of the criteria enumerated in subdivision (a) of Section 25148 of the Health and Safety Code, and was operating as of May 1, 1981, pursuant to a valid solid waste facility permit, so as to prohibit or unreasonably regulate the operation of, or the disposal, treatment, or recovery of resources from solid wastes at any such facility. However, nothing in this section authorizes an operator of such a facility to violate any term or condition of a local land use or facility permit or any other provision of law not in conflict with this section.

43209. The enforcement agency, within its jurisdiction and consistent with its certification by the board, shall do all of the following:

(a) Enforce applicable provisions of this part, regulations adopted under this part, and terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section 44001).

(b) Request enforcement by appropriate federal, state, and local agencies of their respective laws governing solid waste storage, handling, and disposal.

(c) File with the board, upon its request, information the board determines to be necessary.

(d) Develop, implement, and maintain inspection, enforcement, permitting, and training programs.

(e) Establish and maintain an enforcement program consistent with regulations adopted by the board to implement this chapter, the

standards adopted pursuant to this chapter, and the terms and conditions of permits issued pursuant to Chapter 3 (commencing with Section 44001). The enforcement agency may establish specific local standards for solid waste handling and disposal subject to approval by a majority vote of its local governing body, by resolution or ordinance. Any such standard shall be consistent with this division and all regulations adopted by the board.

(f) Keep and maintain records of its inspection, enforcement, permitting, training, and regulatory programs, and of any other official action in accordance with regulations adopted by the board.

(g) Consult, as appropriate, with the appropriate local health agency concerning all actions which involve health standards. The consultation shall include affording the health agency adequate notice and opportunity to conduct and report the evaluation as it reasonably determines is appropriate.

(h) Establish and maintain an inspection program. The inspection program shall be designed to determine whether any solid waste facility is operating without a permit, or in violation of state minimum standards, or in violation of the terms and conditions of its solid waste facilities permit, or may pose a significant threat to public health and safety or to the environment, based on any relevant information. The inspection program shall also ensure frequent inspections of solid waste facilities that have an established pattern of noncompliance with this division, regulations adopted pursuant to this division, or the terms and conditions of a solid waste facilities permit.

43209.1. (a) Notwithstanding any other provision of law, if an enforcement agency receives a complaint, pursuant to subdivision (b) of Section 41705 of the Health and Safety Code, from an air pollution control district or an air quality management district pertaining to an odor emanating from a compost facility under its jurisdiction, the enforcement agency shall, in consultation with the district, take appropriate enforcement actions pursuant to this part.

(b) On or before April 1, 1998, the board shall convene a working group consisting of enforcement agencies and air pollution control districts and air quality management districts to assist in the implementation of this section and Section 41705 of the Health and Safety Code. On or before April 1, 1999, the board and the working group shall develop recommendations on odor measurement and thresholds, complaint response procedures, and enforcement tools and take any other action necessary to ensure that enforcement agencies respond in a timely and effective manner to complaints of odors emanating from composting facilities. On or before January 1, 2000, the board shall implement the recommendations of the working group that the board determines to be appropriate.

(c) On or before April 1, 2003, the board shall adopt and submit to the Office of Administrative Law, pursuant to Section 11346.2 of the Government Code, regulations governing the operation of organic composting sites that include, but are not limited to, any of the following:

(1) Odor management and threshold levels.

(2) Complaint investigation and response procedures.

(3) Enforcement tools.

(d) This section shall become inoperative on April 1, 2003, unless the board adopts and submits regulations governing the operation of organic composting sites to the Office of Administrative Law pursuant to subdivision (c) on or prior to that date.

43210. For those facilities that accept only hazardous wastes, or accept only low-level radioactive wastes, or facilities that accept only both, and to which Chapter 6.5 (commencing with Section 25100) of Division 20 or Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code applies, the board and the enforcement agency have no enforcement or regulatory authority. All enforcement activities for the facilities relative to the control of hazardous wastes shall be performed by the Department of Toxic Substances Control pursuant to Article 8 (commencing with Section 25180) of Chapter 6.5 of Division 20 of the Health and Safety Code, and all enforcement activities relative to the control of low-level radioactive waste shall be performed by the State Department of Health Services pursuant to Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the Health and Safety Code.

43211. (a) For those facilities that accept both hazardous wastes and other solid wastes, the Department of Toxic Substances Control shall exercise enforcement and regulatory powers relating to the control of the hazardous wastes at the facility pursuant to Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. The board and the enforcement agency shall, at solid waste disposal facilities, exercise enforcement and regulatory powers relating to the control of solid wastes and asbestos-containing waste, as provided in Section 44820.

(b) For purposes of this section, "asbestos containing waste" means waste that contains more than 1 percent by weight, of asbestos that is either friable or nonfriable.

43212. (a) If the board is the enforcement agency, the board may impose fees to recover its costs of operation on the local governing body, a solid waste facility operator, or a solid waste enterprise that operates within the jurisdiction of the enforcement agency, and shall collect those fees in a manner determined by the board and developed in consultation with the local governing body. Any fees imposed pursuant to this section shall bear a direct relationship to the reasonable and necessary costs, as determined by the board, of providing for the efficient operation of the activities or programs for which the fee is imposed.

(b) If the board is the enforcement agency for a county and all of the cities within that county, the local governing body shall be the county board of supervisors for purposes of this section.

43212.1. If the board is the enforcement agency, the local governing body and the board shall enter into an agreement which shall identify the jurisdictional boundaries of the enforcement agency; address the powers and duties to be performed by the board as the enforcement agency, and identify an estimated workload and anticipated costs to the board.

43213. The enforcement agency may, upon a majority vote of its local governing body, prescribe, revise, and collect fees or other charges from each operator of a solid waste facility or from any person who conducts solid waste handling if the local governing body having ratesetting authority has approved rate adjustments to compensate the solid waste hauler or solid waste facility operator for the amount of the fee or charges imposed pursuant to this section. The fee or other charge shall be based on the weight, volume, or type of solid waste which is received or handled by any such operator or person or on any other appropriate basis or any combination of the foregoing. In no case shall the fee or other charge imposed by the enforcement agency under this section exceed the actual cost of the solid waste enforcement authorized under this title.

43214. (a) The board shall develop performance standards for evaluating certified local enforcement agencies and shall periodically review each certified enforcement agency and its implementation of the permit, inspection, and enforcement program. The board's review shall include periodic inspections of solid waste facilities within the jurisdiction of each enforcement agency for the purpose of evaluating whether the enforcement agency is appropriately applying and enforcing state minimum standards at solid wastesites within its jurisdiction.

(b) Following initial certification of an enforcement agency by the board, the board shall conduct a performance review of the enforcement agency every three years, or more frequently as determined by the board.

(c) In conducting performance reviews of enforcement agencies, the board shall, based on the performance standards developed pursuant to subdivision (a), determine whether each enforcement agency is in compliance with the requirements of this article and the regulations adopted to implement this article. If the board finds that an enforcement agency is not fulfilling its responsibilities pursuant to this article and if the board also finds that this lack of compliance has contributed to significant noncompliance with state minimum standards at solid waste facilities within the jurisdiction of the enforcement agency, the board shall withdraw its approval of designation pursuant to Sections 43215 and 43216. Notwithstanding Sections 43215 and 43216, if the board finds that conditions at solid waste facilities within the jurisdiction of the enforcement agency threaten public health and safety or the environment, the board shall, within 10 days of notifying the enforcement agency, become the enforcement agency until another enforcement agency is designated locally and certified by the board.

(d) The board shall find that an enforcement agency is not fulfilling its responsibilities pursuant to this article, and may take action as prescribed by subdivision (c), if the board, in conducting its performance review, makes one or more of the following findings with regard to compliance with this part and Part 5 (commencing with Section 45000):

(1) The enforcement agency has failed to exercise due diligence in the inspection of solid waste facilities and disposal sites.

(2) The enforcement agency has intentionally misrepresented the results of inspections.

(3) The enforcement agency has failed to prepare, or cause to be prepared, permits, permit revisions, or closure and postclosure maintenance plans.

(4) The enforcement agency has approved permits, permit revisions,

or closure and postclosure maintenance plans which are not consistent with this part and Part 5 (commencing with Section 45000).

(5) The enforcement agency has failed to take appropriate enforcement actions.

(6) The enforcement agency has failed to comply with, or has taken actions that are inconsistent with, or that are not authorized by, this division or the regulations adopted by the board pursuant to this division. However, nothing in this paragraph is intended to affect the authority of enforcement agencies pursuant to subdivision (e) of Section 43209.

43215. (a) If the board, in conducting the inspection and performance review required pursuant to Section 43214 or this section, finds that the enforcement agency is not fulfilling one or more of its responsibilities, the board shall notify the enforcement agency of the particular reasons for finding that the enforcement agency is not fulfilling its responsibilities and of the board's intention to withdraw its approval of the designation if, within a time to be specified in that notification, but in no event less than 30 days, the enforcement agency does not take the corrective action specified by the board.

(b) The board shall adopt regulations that establish a process for notice, public hearing, the admission of evidence, and final action by the board for partial or full withdrawal of the approval of designation pursuant to this chapter.

43215.1. The board may, upon the written request of an enforcement agency, provide legal counsel for purposes of compliance with this part.

43216. If the board withdraws its approval of the designation of an enforcement agency, another enforcement agency shall be designated pursuant to Section 43203 within 90 days and approved by the board. If no designation is made within 90 days, the board shall become the enforcement agency within the jurisdiction of the former enforcement agency.

43216.5. In addition to the procedures for board withdrawal of its approval of a local enforcement agency's designation pursuant to Sections 43214, 43215, and 43216, the board may take any actions which are determined by the board to be necessary to ensure that local enforcement agencies fulfill their obligations under this chapter. To ensure that a local enforcement agency is appropriately fulfilling its obligations under this chapter and implementing regulations, the board may conduct more frequent inspections and evaluations within a local enforcement agency's jurisdiction, establish a schedule and probationary period for improved performance by a local enforcement agency, assume partial responsibility for specified local enforcement agency duties, and implement any other measures which may be determined by the board to be necessary to improve local enforcement agency compliance.

43217. The board shall provide ongoing training, technical assistance, and guidance to local enforcement agencies to assist in their decisionmaking processes. This assistance shall include, but is not limited to, providing all of the following:

(a) Technical studies and reports.

(b) Copies of innovative solid waste facility operation plans.

(c) Investigative findings and analyses of new solid waste management practices and procedures.

(d) A program for loaning technical and scientific equipment, to the extent that funds are available to the board to purchase that equipment.

43218. Each enforcement agency shall inspect each solid waste facility within its jurisdiction at least one time each month and shall file, within 30 days of the inspection, a written report in a format prescribed by the board.

43219. (a) The board may, at its discretion, conduct inspections and investigations of solid waste facilities in order to evaluate the local enforcement agency and to ensure that state minimum standards are met.

(b) Except as otherwise provided by Section 43220, the board, in conjunction with an inspection conducted by the local enforcement agency, shall conduct inspections of solid waste facilities within the jurisdiction of each local enforcement agency. The board shall inspect the types and number of solid waste facilities which are determined by the board to be necessary to adequately evaluate whether the local enforcement agency is ensuring compliance by solid waste facilities with state minimum standards. A written inspection report shall be prepared and submitted within 30 days of the inspection to the local enforcement agency.

(c) If the board identifies any significant violation of state minimum standards that were not identified and resolved through previous inspections by the local enforcement agency, the board shall take appropriate action as authorized by Sections 43215 and 43216.5.

(d) Notwithstanding any other provision of this section and Sections 43215 and 43216, if, as a result of a facility inspection conducted pursuant to subdivision (b), the board finds that conditions at a solid waste facility within the jurisdiction of a local enforcement agency threaten public health and safety or the environment, the board shall, within 10 days of notifying the local enforcement agency, become the enforcement agency until another local enforcement agency is designated locally and certified by the board.

43220. The board, in conjunction with an inspection conducted by the local enforcement agency, shall conduct at least one inspection every 18 months of each solid waste landfill and transformation facility in the state. A written inspection report shall be prepared and submitted within 30 days of the inspection to the local enforcement agency. If the board identifies any significant violation of state minimum standards that was not resolved through previous inspections by the local enforcement agency, the board shall take appropriate action as authorized by Sections 43215 and 43216.5 and subdivision (d) of Section 43219.

43222. Any fees or charges imposed pursuant to this part by any enforcement agency shall bear a direct relationship to the reasonable and necessary cost, as determined by the enforcement agency, of providing the efficient operation of the activities or programs for which the fee is assessed.

PUBLIC RESOURCES CODE
SECTION 44001-44018

44001. Any person who proposes to become an operator of a solid waste facility shall file with the enforcement agency having jurisdiction over the facility, or the board if there is no designated and certified enforcement agency, an application for a solid waste facilities permit at least 150 days in advance of the date on which it is desired to commence operation, unless the enforcement agency issues a permit to the applicant to commence operations prior to that time.

44002. (a) (1) No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division.

(2) The prohibition specified in paragraph (1) includes, but is not limited to, the operation of a solid waste facility without a required solid waste facilities permit or the operation of a solid waste facility outside the permitted boundaries specified in a solid waste facilities permit.

(b) If the enforcement agency determines that a person is operating a solid waste facility in violation of subdivision (a), the enforcement agency shall immediately issue a cease and desist order pursuant to Section 45005 ordering the facility to immediately cease all activities for which a solid waste facilities permit is required and desist from those activities until the person obtains a valid solid waste facilities permit authorizing the activities or has obtained other authorization pursuant to this division.

44003. When the operator of the disposal site is not the disposal site owner, the disposal site operator's application for a solid waste facilities permit shall contain any information that the enforcement agency or the board may require regarding the disposal site owner's interest in the real property utilized as the disposal site.

44004. (a) An operator of a solid waste facility may not make a significant change in the design or operation of the solid waste facility that is not authorized by the existing permit, unless the change is approved by the enforcement agency, the change conforms with this division and all regulations adopted pursuant to this division, and the terms and conditions of the solid waste facilities permit are revised to reflect the change.

(b) If the operator wishes to change the design or operation of the solid waste facility in a manner that is not authorized by the existing permit, the operator shall file an application for revision of the existing solid waste facilities permit with the enforcement agency. The application shall be filed at least 180 days in advance of the date when the proposed modification is to take place unless the 180-day time period is waived by the enforcement agency.

(c) The enforcement agency shall review the application to

determine all of the following:

(1) Whether the change conforms with this division and all regulations adopted pursuant to this division.

(2) Whether the change requires review pursuant to Division 13 (commencing with Section 21000).

(d) Within 60 days from the date of the receipt of the application for a revised permit, the enforcement agency shall inform the operator, and if the enforcement agency is a local enforcement agency, also inform the board, of its determination to do any of the following:

(1) Allow the change without a revision to the permit.

(2) Disallow the change because it does not conform with the requirements of this division or the regulations adopted pursuant to this division.

(3) Require a revision of the solid waste facilities permit to allow the change.

(4) Require review under Division 13 (commencing with Section 21000) before a decision is made.

(e) The operator has 30 days within which to appeal the decision of the enforcement agency to the hearing panel, as authorized pursuant to Article 2 (commencing with Section 44305) of Chapter 4. The enforcement agency shall provide notice of a hearing held pursuant to this subdivision in the same manner as notice is provided pursuant to subdivision (h).

(f) Under circumstances that present an immediate danger to the public health and safety or to the environment, as determined by the enforcement agency, the 180-day filing period may be waived.

(g) (1) A permit revision is not required for the temporary suspension of activities at a solid waste facility if the suspension meets either of the following criteria:

(A) The suspension is for the maintenance or minor modifications to a solid waste unit or to solid waste management equipment.

(B) The suspension is for temporarily ceasing the receipt of solid waste at a solid waste management facility and the owner or operator is in compliance with all other applicable terms and conditions of the solid waste facilities permit and minimum standards adopted by the board.

(2) An owner or operator of a solid waste facility who temporarily suspends operations shall remain subject to the closure and postclosure maintenance requirements of this division and to all other requirements imposed by federal law pertaining to the operation of a solid waste facility.

(3) The enforcement agency may impose any reasonable conditions relating to the maintenance of the solid waste facility, environmental monitoring, and periodic reporting during the period of temporary suspension. The board may also impose any reasonable conditions determined to be necessary to ensure compliance with applicable state standards.

(h) (1) (A) Before making its determination pursuant to subdivision (d), the enforcement agency shall submit the proposed determination to the board for comment and hold at least one public hearing on the proposed determination. The enforcement agency shall give notice of the hearing pursuant to Section 65091 of the Government Code, except that the notice shall be provided to all owners of real property within a distance other than 300 feet of the real property that is the subject of the hearing, if specified in the regulations adopted by the board pursuant to subdivision (i). The enforcement agency shall also provide notice of the hearing to the board when it submits the proposed determination to the board.

(B) The enforcement agency shall mail or deliver the notice

required pursuant to subparagraph (A) at least 10 days prior to the date of the hearing to any person who has filed a written request for the notice with a person designated by the enforcement agency to receive these requests. The enforcement agency may charge a fee to the requester in an amount that is reasonably related to the costs of providing this service and the enforcement agency may require each request to be annually renewed.

(C) The enforcement agency shall consider environmental justice issues when preparing and distributing the notice to ensure that the notice is concise and understandable for limited-English-speaking populations.

(2) If the board comments pursuant to paragraph (1), the board shall specify whether the proposed determination is consistent with the regulation adopted pursuant to subdivision (i).

(i) (1) The board shall, to the extent resources are available, adopt regulations that implement subdivision (h) and define the term "significant change in the design or operation of the solid waste facility that is not authorized by the existing permit."

(2) While formulating and adopting the regulations required pursuant to paragraph (1), the board shall consider recommendations of the Working Group on Environmental Justice and the advisory group made pursuant to Sections 71113 and 71114 and the report required pursuant to Section 71115.

44005. (a) Any owner or operator of a solid waste facility who plans to encumber, sell, transfer, or convey the ownership or operations of a solid waste facility or disposal site to a new owner or operator, shall notify the enforcement agency and the board, 45 days prior to the date of the anticipated transfer. The notification shall be in writing and shall include information as determined by the board, including any financial assurances, if applicable.

(b) The enforcement agency and the board shall review the notification documentation and any available records of enforcement actions taken against the proposed transferee, and shall determine, within 30 days of receipt, whether the facility will be operated in compliance with the terms and conditions of an approved permit and any other applicable requirements, including, but not limited to, the requirements of Division 13 (commencing with Section 21000). If the solid waste facility will not be operated in compliance with the terms and conditions of an approved permit, or any other applicable requirements of Division 13 (commencing with Section 21000), the new owner or operator shall be required to file an application for a revised or modified solid waste facilities permit.

(c) If the enforcement agency or the board determines that the facility will be operated in compliance with the terms and conditions of the existing permit, the enforcement agency may change the name of the owner or operator on the permit.

44006. (a) Each report or application filed under this article shall be submitted under oath or under penalty of perjury.

(b) Each report, notice, or application filed under this article shall be submitted on a form approved by the board.

(c) Each application required to be filed under this article shall be accompanied by a filing fee according to a fee schedule established by the enforcement agency to reflect the cost of processing the application and to recover costs incurred in meeting

the requirements of Article 3 (commencing with Section 43500) and Article 4 (commencing with Section 43600) of Chapter 2. This fee is in addition to the fees authorized by Chapter 8 (commencing with Section 41900) of Part 2.

44007. The enforcement agency shall not issue or revise a solid waste facilities permit unless it has, at least 65 days in advance, provided the board and the applicant with a copy of the proposed permit, which shall contain the terms and conditions the enforcement agency proposes to establish.

44008. (a) A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days from the date that the application is deemed complete pursuant to Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7 of the Government Code, unless waived by the applicant.

(b) The enforcement agency may only issue the permit pursuant to subdivision (a) if it finds that the proposed solid waste facilities permit is consistent with this division and any regulations adopted by the board pursuant to this division applicable to solid waste facilities.

44009. (a) (1) The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 60 days from the date of the board's receipt of any proposed solid waste facilities permit submitted under Section 44007 after consideration of the issues in this section.

(2) If the board determines that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Sections 43040, 43600, 44007, 44010, 44017, 44150, and 44152 or Division 31 (commencing with Section 50000), the board shall object to provisions of the permit and shall submit those objections to the local enforcement agency for its consideration.

(3) If the board fails to concur or object in writing within the 60-day period specified in paragraph (1), the board shall be deemed to have concurred in the issuance of the permit as submitted to it.

(b) Notwithstanding subdivision (a), the board is not required to concur in, or object to, and shall not be deemed to have concurred in, the issuance of a solid waste facilities permit for a disposal facility if the owner or operator is not in compliance with, as determined by the regional water board, an enforcement order issued pursuant to Chapter 5 (commencing with Section 13300) of Division 7 of the Water Code, or if all of the following conditions exist:

(1) Waste discharge requirements for the disposal facility issued by the applicable regional water board are pending review in a petition before the state water board.

(2) The petition for review of the waste discharge requirements includes a request for a stay of the waste discharge requirements.

(3) The state water board has not taken action on the stay request portion of the pending petition for review of waste discharge requirements.

(c) In objecting to the issuance, modification, or revision of any solid waste facilities permit pursuant to this section, the board shall, based on substantial evidence in the record as to the matter

before the board, state its reasons for objecting. The board shall not object to the issuance, modification, or revision of any solid waste facilities permit unless the board finds that the permit is not consistent with the state minimum standards adopted pursuant to Section 43020, or is not consistent with Section 43040, 43600, 44007, 44010, 44017, 44150, or 44152 or Division 31 (commencing with Section 50000).

(d) Nothing in this section is intended to require that a solid waste facility obtain a waste discharge permit from a regional water board prior to obtaining a solid waste facilities permit.

44010. The enforcement agency shall issue the permit only if it finds that the proposed solid waste facilities permit is consistent with the standards adopted by the board.

44012. When issuing or revising any solid waste facilities permit, the enforcement agency shall ensure that primary consideration is given to protecting public health and safety and preventing environmental damage, and that the long-term protection of the environment is the guiding criterion, and that any terms and conditions of the solid waste facilities permit are consistent with subdivision (e) of Section 43209 and this division.

44014. (a) Upon compliance with Sections 44007, 44008, and 44009, and after any necessary hearing, the local enforcement agency shall issue, modify, or revise a solid waste facilities permit if the board has concurred in that issuance, modification, or revision of the permit pursuant to Section 44009.

(b) The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(c) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the permittee a copy of the solid waste facilities permit.

44015. A solid waste facilities permit issued or revised under this chapter shall be reviewed and, if necessary, revised at least once every five years.

44016. (a) The enforcement agency may, in accordance with Chapter 4 (commencing with Section 44300), suspend or revoke the permit of any solid waste facility designed to convert solid waste from offsite sources into energy or synthetic fuels if the facility utilizes recyclable materials for conversion to energy and if the local agency in whose jurisdiction the materials are collected requires, by ordinance, contract, or otherwise, that recyclable materials within the jurisdiction of that local agency be converted into energy at that facility. This subdivision does not otherwise restrict the ability of a solid waste facility to purchase, collect, transport, or

process recyclable materials.

(b) As used in this section, "local agency" means any county, city, or district authorized to collect, dispose, or collect and dispose of solid waste, or any joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code which is authorized to construct and operate a facility for the conversion of solid waste into energy, synthetic fuel, or reusable materials.

(c) As used in this section, "recyclable materials" means discarded paper, glass, cardboard, plastic, ferrous metal, or aluminum which has been segregated from other solid waste materials for the purpose of reuse or recycling, except that recyclable materials do not include materials which a local agency, having jurisdiction over the locations where these materials exist, determines could be potentially harmful to the public health, or materials which create a public nuisance, as defined in Section 3480 of the Civil Code.

44017. The enforcement agency shall include, in the permit of any solid waste facility designed to convert solid waste into energy or synthetic fuels, a provision which requires the use of operating procedures at the facility to prevent hazardous waste from entering the conversion process.

44018. The board shall establish, by regulation, a program to be implemented by the board and by local enforcement agencies that provides for the expedited review of permits issued pursuant to this article. The program shall be designed to reduce unnecessary delay in the issuance of these permits and to protect the public health and safety and the environment.

PUBLIC RESOURCES CODE SECTION 44305-44310

44305. (a) An enforcement agency may, after holding a public hearing before a hearing panel or a hearing officer appointed pursuant to Section 44308 or 44309, in accordance with the procedures set forth in Section 44310, temporarily suspend a solid waste facilities permit if the enforcement agency determines that changed conditions at the facility necessitate a permit revision or modification to eliminate a significant threat to public health and safety or to the environment.

(b) Notwithstanding subdivision (a), the enforcement agency may suspend a solid waste facilities permit prior to holding a hearing if the enforcement agency determines that changed conditions at the facility necessitate a permit revision or modification to prevent or mitigate an imminent and substantial threat to the public health and safety or to the environment. However, any person aggrieved by an action by an enforcement agency to suspend a permit pursuant to this subdivision may appeal the action to a hearing panel or hearing officer appointed pursuant to Section 44308 or 44309. The hearing panel or hearing officer shall, at the request of the aggrieved party, hear the appeal within three business days of the date when the permit was suspended, or the first day thereafter requested by the aggrieved party in compliance with Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code. The hearing panel or hearing officer shall render its decision on the day the hearing concludes. The hearing panel or hearing officer may affirm, modify, or rescind the permit suspension. A decision of a hearing panel or hearing officer appointed pursuant to Section 44308 or 44309 may be appealed pursuant to Section 45030.

(c) The enforcement agency shall lift the permit suspension as soon as the changed conditions that necessitated the suspension pursuant to subdivision (b) have been corrected.

44306. The enforcement agency may, after holding a hearing in accordance with the procedures set forth in Section 44310, revoke a solid waste facilities permit if the enforcement agency determines any of the following:

(a) The permit was obtained by a material misrepresentation or failure to disclose relevant factual information.

(b) The operator has, during the previous three years, been convicted of, or been issued a final order for, one or more violations of this division, regulations adopted pursuant to this division, or the terms and conditions of the permit, and the violation meets both of the following criteria:

(1) The violation demonstrates a chronic recurring pattern of noncompliance which has posed, or may pose, a significant risk to public health and safety or to the environment.

(2) The violation has not been corrected or reasonable progress toward correction has not been achieved.

44307. From the date of issuance of a permit that imposes conditions that are inappropriate, as contended by the applicant, or after the taking of any enforcement action pursuant to Part 5 (commencing with Section 45000) by the enforcement agency, the enforcement agency shall hold a hearing, if requested to do so, by the person subject to the action. The enforcement agency shall also hold a hearing upon a petition to the enforcement agency from any person requesting the enforcement agency to review an alleged failure of the agency to act as required by law or regulation. A hearing shall be held in accordance with the procedures specified in Section 44310.

44308. (a) All hearings conducted pursuant to this chapter by the enforcement agency shall be conducted by a hearing officer appointed pursuant to subdivision (d) or a hearing panel appointed pursuant to either of the following procedures:

(1) The governing body may appoint three of its members as the hearing panel.

(2) The chairperson of the governing body may appoint an independent hearing panel consisting of three members.

(b) (1) If an independent hearing panel is appointed pursuant to paragraph (2) of subdivision (a), not more than one member of the governing body shall serve on the hearing panel.

(2) Members of the independent hearing panel shall be selected for their legal, administrative, or technical abilities in areas relating to solid waste management.

(3) At least one member of the independent hearing panel shall be a technical expert with knowledge of solid waste management methods and technology.

(4) At least one member of the independent hearing panel shall be a representative of the public at large.

(5) A member of an independent hearing panel shall serve for a term of four years, and may not serve more than two consecutive terms.

(6) If a member of an independent hearing panel does not complete the member's term, the chairperson of the governing body shall appoint a replacement to serve out the remainder of the unexpired term.

(c) Members of the hearing panel may receive per diem and necessary expenses while conducting the hearing.

(d) The governing body of an enforcement agency may appoint a hearing officer only if the governing body has adopted procedures for making that appointment and has adopted qualifications that the hearing officer is required to meet.

44309. All hearings conducted by the board acting as the enforcement agency pursuant to Section 43205 shall be conducted by a hearing panel of three board members appointed by the chairperson of the board.

44310. All hearings conducted pursuant to this chapter shall be based on the following procedures:

(a) (1) The hearing shall be initiated by the filing of a written request for a hearing with a statement of the issues.

(A) If the hearing request is made by the person subject to the action, the request shall be made within 15 days from the date that

person is notified, in writing, of the enforcement agency's intent to act in the manner specified.

(B) If the hearing request is made by a person alleging that the enforcement agency failed to act as required by law or regulation pursuant to Section 44307, the person shall file a request for a hearing within 30 days from the date the person discovered or reasonably should have discovered, the facts on which the allegation is based.

(2) The enforcement agency shall, within 15 days from the date of receipt of a request for a hearing, provide written notice to the person filing the request notifying the person of the date, time, and place of the hearing.

(3) If that person fails to request a hearing or to timely file a statement of issues, the enforcement agency may take the proposed action without a hearing or may, at its discretion, proceed with a hearing before taking the proposed action.

(4) The enforcement agency shall file its written response to the statement of issues filed by the person requesting the hearing with the hearing panel or the hearing officer, and provide a copy to the person requesting the hearing, not less than 15 days prior to the date of the hearing.

(b) The hearing shall be held no later than 30 days after receiving the request for a hearing on the merits of the issues presented, in accordance with the procedures specified in Article 10 (commencing with Section 11445.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Within five days from the conclusion of the hearing, the hearing panel or hearing officer shall issue its decision. The decision shall become effective as provided in Section 45017.

PUBLIC RESOURCES CODE
SECTION 44300

44300. An enforcement agency may, after holding a public hearing before a hearing panel or a hearing officer appointed pursuant to Section 44308 or 44309, in accordance with the procedures set forth in Section 44310, deny a solid waste facilities permit in any of the following cases:

(a) The application is incomplete or otherwise inadequate.

(b) The applicant has not complied with Division 13 (commencing with Section 21000).

(c) The applicant has failed to demonstrate that the facility will meet minimum regulatory standards.

(d) The application contains significant false or misleading information or significant misrepresentations.

(e) The agency determines the applicant has, during the previous three years, been convicted of, or been issued a final order for, one or more violations of this division, or regulations adopted pursuant to this division, or the terms and conditions of the permit, and the violation meets both of the following criteria:

(1) The violation demonstrates a chronic recurring pattern of noncompliance that has posed, or may pose, a significant risk to public health and safety or to the environment.

(2) The violation has not been corrected or reasonable progress toward correction has not been achieved.

PUBLIC RESOURCES CODE
SECTION 45040-45042

45040. Within 30 days from the date of service of a copy of a decision and order issued by a local enforcement agency or the board, except as provided in subdivision (a) of Section 45032, under Chapter 1 (commencing with Section 45000), any aggrieved party may file with the superior court a petition for a writ of mandate for review thereof.

45041. The evidence before the court shall consist of the records before the hearing panel or hearing officer and the board, if any, including the enforcement agency's records, and any other relevant evidence that, in the judgment of the court, should be considered to effectuate and implement the policies of this division.

45042. Except as otherwise provided in this chapter, Section 1094.5 of the Code of Civil Procedure shall govern proceedings pursuant to this article.

PUBLIC RESOURCES CODE
SECTION 45000-45002

45000. (a) Except as provided in subdivision (b), the enforcement agency may issue an administrative order requiring the owner or operator of a solid waste facility to take corrective action as necessary to abate a nuisance, or to protect human health and safety or the environment.

(b) An administrative order shall not be issued for any minor violation that is corrected immediately in the presence of the inspector. Immediate compliance in that manner shall be noted in the inspection report.

(c) The enforcement agency or the board may contract for corrective action after an order issued pursuant to subdivision (a) becomes final and the owner or operator fails to comply with the order by the date specified in the order.

(d) If an enforcement agency or the board expends any funds pursuant to subdivision (b), the owner or operator of the solid waste facility shall reimburse the enforcement agency or the board for the amount expended, including, but not limited to, a reasonable amount for contract administration, and an amount equal to the interest that would have been earned on the expended funds. The amount expended shall be recoverable in a civil action by the Attorney General, upon request of the local enforcement agency or the board.

(e) Any contract for corrective action entered into by the board is exempt from approval by the Department of General Services pursuant to Section 10295 of the Public Contract Code.

(f) Any corrective action shall incorporate by reference any applicable waste discharge requirements issued by the state water board or a regional water board, and shall be consistent with all applicable water quality control plans adopted pursuant to Section 13170 of, and Article 3 (commencing with Section 13240) of Chapter 4 of Division 7 of, the Water Code, and state policies for water quality control adopted pursuant to Article 3 (commencing with Section 13140) of Chapter 3 of Division 7 of the Water Code, existing at the time of the corrective action or proposed corrective action.

45001. Nothing in this division affects the authority of the state water board or a regional water board to issue enforcement orders or take corrective actions with regard to solid waste facilities.

45002. An order issued pursuant to this part or Part 4 (commencing with Section 43000) shall provide the person subject to that order with a notice of that person's right to appeal pursuant to Part 4 (commencing with Section 43000) and Part 6 (commencing with Section 45030).

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14 CCR s 17200

Cal. Admin. Code tit. 14, s 17200

BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS
TITLE 14. NATURAL RESOURCES
DIVISION 7. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
CHAPTER 3. MINIMUM STANDARDS FOR SOLID WASTE HANDLING AND DISPOSAL
ARTICLE 1. GENERAL

This database is current through 05/26/06, Register 2006, No. 21.

s 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.

Note: Authority cited: Sections 66770-66774 and 66790, Government Code. Reference: Sections 66770-66774 and Chapters 1, 2 and 3 of Title 7.3 and Section 11125, Government Code.

HISTORY

1. New Chapter 3 (Articles 1-7, Sections 17200-17751, not consecutive) filed 5-1-75; effective thirtieth day thereafter (Register 75, No. 18).

2. Amendment filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

3. Change without regulatory effect amending section filed 5-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 27).

14 CA ADC s 17200

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s 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.

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ARTICLE 2. PURPOSE AND INTENT

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s 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.

HISTORY

1. Amendment filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

14 CA ADC s 17202

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ARTICLE 2. PURPOSE AND INTENT

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s 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.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40000, 40001 and 40002, Public Resources Code.

HISTORY

1. Amendment filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

2. Change without regulatory effect amending section filed 5-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 27).

3. Amendment filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

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ARTICLE 2. PURPOSE AND INTENT

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s 17204. Intent of Standards.

These standards are intended to describe required levels of performance rather than detailed requirements. Wherever possible, operators and designers will 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 usually 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.

HISTORY

1. Amendment filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

14 CA ADC s 17204

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s 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.

14 CA ADC s 17205

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This database is current through 05/26/06, Register 2006, No. 21.

s 17206. Waivers.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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s 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.

Note: Authority cited: Section 40502, Public Resources Code. Reference: Sections 40000, 40001 and 40002, Public Resources Code; Title 40, Code of Federal Regulations, Section 258.2.

HISTORY

1. Amendment filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

2. Change without regulatory effect amending section filed 5-17-91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 27).

3. Amendment of section and Note filed 7-12-93 as an emergency; operative 7-12-93 (Register 93, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-9-93 or emergency language will be repealed by operation of law on the following day.

4. Amendment of section and Note refiled 11-9-93 as an emergency; operative 11-9-93 (Register 93, No. 46). A Certificate of Compliance must be transmitted to OAL by 4-26-93 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 11-9-93 order transmitted to OAL 3-8-94 and filed 4-19-94 (Register 94, No. 16).

6. Repealer of subsection (b) filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

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s 17225.1. Abandoned Vehicles.

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

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s 17225.2. Active Face.

HISTORY

1. Repealer filed 6-18-97; operative 7-18-97 (Register

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s 17225.3. Agricultural Solid Wastes.

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

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s 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.

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s 17225.5. Ashes.

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

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s 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.

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s 17225.21. Disposal Area.

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

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s 17225.22. Disposal Site or Site.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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s 17225.23. Disposal Site Owner.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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s 17225.24. Dump.

HISTORY

1. Repealer filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

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s 17225.39. Landfill.

HISTORY

1. Repealer filed 6-18-97; operative 7-18-97 (Register 97, No. 25).

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s 17225.48. Operator.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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s 17225.69. Solid Wastes or Wastes.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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s 17225.72. Transfer/Processing Station or Station.

HISTORY

1. Repealer filed 2-21-78; effective thirtieth day thereafter (Register 78, No. 8).

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ARTICLE 5.9. CONSTRUCTION AND DEMOLITION AND INERT DEBRIS TRANSFER/PROCESSING REGULATORY REQUIREMENTS

This database is current through 05/26/06, Register 2006, No. 21.

s 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 board'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 or facilities pursuant to Articles 6.0 through 6.35, 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 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 and 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 or private contractors demolishing or constructing buildings are not subject to these regulations during the course of the construction work.

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

HISTORY

1. New article 5.9 (sections 17380-17386) and section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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 at 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 "C&D 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(j) 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 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, 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.

(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

(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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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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 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.

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s 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 centers 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 board on Form CIWMB 607 (see Appendix A).

(2) The amount of putrescible wastes in 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 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.

(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 board.

(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 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.

(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 board.

(5) At the EA's discretion, storage 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 board 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 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 that 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 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

14 CA ADC s 17381.1

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s 17381.2. Regulatory Tiers Placement for CDI Debris and Inert Debris Processing Operations and Facilities.

Construction & Demolition and Inert Debris Tier Placement

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Not Subject To Article 5.9	Excluded Operations Tier Section 17382	EA Notification Tier	Registration Tier	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)	CDI debris processing facilities (175 tons per day or more) - Section 17383 .5	P R O C E S S I N
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	Section 17383.3 Medium	Inert Debris Processing Facility (1500 tons per day or	
Wood waste facilities pursuant to PRC 40195.1(b)	Specified				

	chipping and	than 200 tons per	Volume C&D	more) of any	G
Inert Debris Recycling	grinding	day) - Section	Wood Debris	combination of	
Centers Section 17381.1	activities	17383.3	Chipping and	Type A and	A
			Grinding	Type B inert	C
See Section 17402.5	Specified	Emergency CDI	Facilities (200	debris or any	T
for other Activities Not	Grading	processing	to <500 tons	amount of Type	I
Subject to the Regulations	Activities	operations - Section 17383.8	per day) - Section	B inert debris Section	V I
			17383.3	17383.7	T
Road building and		Inert debris Type			I
specified public works		A only processing		Large Volume	E
activities Section		operations (less		C&D Wood	S
17380(g)		than 1500 tons per day) Section		Debris Chipping and Grinding	
		17383.6		Facilities (500 tons per day or more) - Section 17383.3	

NOTE: THERE ARE NO FACILITIES PLACED WITHIN THE STANDARDIZED TIER

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

14 CA ADC s 17381.2

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s 17382. Excluded Activities.

(a) The following activities do not constitute CDI debris processing, inert debris processing, or chipping and grinding operations or facilities for the purposes 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 500cubic 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 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 and operator to demonstrate that the activities are excluded pursuant to this section.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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 debris 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.

Note: Authority cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 40053, 43020, 43021, 43200 and 43209, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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 a 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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. 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. 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. 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. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals. 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.

(4) 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.

(5) 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 proper 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, the site shall be regulated as a CDI processing operation or facility under this Article or under in 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

2. Change without regulatory effect amending subsection (a) filed 6-29-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 27).

14 CA ADC s 17383.3

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s 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 quarterly by the EA to verify compliance with minimum standards. 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 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 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

14 CA ADC s 17383.4

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s 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 received 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, 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

14 CA ADC s 17383.5

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s 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 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 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 the 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.

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(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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

2. Editorial correction inserting inadvertently omitted History1 (Register 2003, No. 29).

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s 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 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) These operations shall be inspected by the EA to verify compliance with minimum standards. Inspections shall be conducted quarterly. 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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 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 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 the 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

2. Change without regulatory effect amending subsection (f) filed 6-29-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 27).

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s 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 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 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 the 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

2. Change without regulatory effect amending subsection (f) filed 6-29-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 27).

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s 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 17383.10. Public Hearing.

(a) Provided that a comparable public hearing has not been held within the year preceding the EA's receipt of a complete and correct application, the EA shall hold an informational public hearing on an application for a Registration Permit or a Full Permit required under this Article. The EA may require the operator(s) of the facility or facilities that are the subject of the hearing to pay all costs incurred by the EA in connection with the hearing. The hearing may be combined with another hearing in which the EA participates that meets the criteria in this section. In the case of an application for a Full Permit, the hearing shall be held before the EA submits the proposed permit to the board for concurrence. In the case of an application for a Registration Permit, the hearing shall be held before the EA issues the permit. The EA shall submit to the board a statement that the hearing required by this section was held, in the case of a Full Permit, at the time the EA submits the proposed permit to the board for concurrence, or, in the case of a Registration Permit, at the time the EA submits a copy of the permit it has issued.

(b) The hearing shall meet the following criteria:

(1) Notice of the hearing shall be given pursuant to Government Code Section 65091, subdivisions (a) - (c), inclusive.

(2) Notice of the hearing shall also be given to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located.

(3) The hearing shall be held in a suitable location not more than five (5) miles from the facility that is the subject of the hearing; provided that, if no suitable location exists within five (5) miles of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical.

(4) The hearing shall be held on a day and at a time that the EA determines will enable attendance by residents living in the vicinity of the facility that is the subject of the hearing.

(c) EAs may undertake additional measures to extend public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the hearing.

Note: Authority Cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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.

Note: Authority Cited: Sections 40502, 43020 and 43021, Public Resources Code. Reference: Sections 43020 and 43021, Public Resources Code.

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

14 CA ADC s 17384

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14 CA ADC § 17384.1

14 CCR s 17384.1

Cal. Admin. Code tit. 14, s 17384.1

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s 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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)

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s 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.

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

HISTORY

1. New section filed 7-10-2003; operative 8-9-2003 (Register 2003, No. 28).

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s 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.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New article 5.95 (sections 17387-17390) and section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 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.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 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.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 17388.1. Regulatory Tiers Placement for CDI Waste and Inert Debris Disposal Operations and Facilities.

Construction & Demolition and Inert Debris Tier Placement

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Excluded Operations Tier Section 17388.2	EA Notification Inert Debris Engineered Fill Operations Section 17388.3	Registration Inert Debris Type A Disposal Facility Section 17388.4	Full Solid Waste Facility Permit CDI Waste Disposal Facility Section 17388.5	DISPOSAL
Inert Debris Engineered Fill activity which concludes within one year				
Removal and disposal of landslide debris				
Removal and disposal of sediment accumulated within irrigation or flood control facilities				
Road building, road repair, etc.				
Clean closed CDI waste disposal facilities				

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Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 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.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 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 as necessary by the EA to verify compliance with State Minimum Standards. Inspections shall be conducted quarterly, unless the EA determines a lesser frequency is sufficient, but in no case shall the inspection frequency be less than annual. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(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), and 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 PRC Section 48000 and Revenue and Taxation Code Section 45151.

(f) All inert debris engineered fill operations, upon completion or 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 in 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.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

14 CA ADC s 17388.3

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s 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 PRC 43218. To the greatest extent possible, all inspections shall be unannounced and shall be conducted at irregular intervals.

(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 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 disposal reporting records and comply with the requirements set forth in Title 14 CCR, Division 7, Chapter 9, Article 9.2 (Disposal Reporting System), commencing at section 18800.

(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 a rural county, as defined in PRC 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 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.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

14 CA ADC s 17388.4

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s 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 board 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 disposal reporting records and shall comply with the requirements set forth in Title 14 CCR, Division 7, Chapter 9, Article 9.2 (Disposal Reporting System), commencing at section 18800.

(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 a rural county, as defined in PRC 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.

(c) To the greatest extent possible, all site inspections shall be unannounced and shall be conducted at irregular intervals.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 17388.6. Public Hearing.

(a) Provided that a comparable public hearing has not been held within the year preceding the EA's receipt of a complete and correct application, the EA shall hold an informational public hearing on an application for a Registration Permit or a Full Permit required under this Article. The EA may require the operator(s) of the facility or facilities that are the subject of the hearing to pay all costs incurred by the EA in connection with the hearing. The hearing may be combined with another hearing in which the EA participates that meets the criteria in this section. In the case of an application for a Full Permit, the hearing shall be held before the EA submits the proposed permit to the board for concurrence. In the case of an application for a Registration Permit, the hearing shall be held before the EA issues the permit. The EA shall submit to the board a statement that the hearing required by this section was held, in the case of a Full Permit, at the time the EA submits the proposed permit to the board for concurrence, or, in the case of a Registration Permit, at the time the EA submits a copy of the permit it has issued.

(b) The hearing shall meet the following criteria:

1. Notice of the hearing shall be given pursuant to Government Code Section 65091, subdivisions (a)-(c), inclusive.

2. Notice of the hearing shall also be given to the governing body of the jurisdiction within which the facility is located and to the State Assembly Member and the State Senator in whose districts the facility is located.

3. The hearing shall be held in a suitable location not more than five (5) miles from the facility that is the subject of the hearing; provided that, if no suitable location exists within five (5) miles of the facility, as determined by the EA, the EA may designate an alternative suitable location that is as close to the facility as reasonably practical.

4. The hearing shall be held on a day and at a time that the EA determines will enable attendance by residents living in the vicinity of the facility that is the subject of the hearing.

(c) EAs may undertake additional measures to extend public notice and to encourage attendance by any persons who may be interested in the facility that is the subject of the hearing.

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No.

52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).
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s 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 board, 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 board 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 appropriate as required.

[Note: Record-keeping requirements for facilities subject to this Article are found at and 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.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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s 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 yardage, 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.

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(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).

Note: Authority cited: Sections 40502, 43020, 43021 and 48007.5, Public Resources Code. Reference: Sections 40053, 43020, 43021 and 48007.5, Public Resources Code.

HISTORY

1. New section filed 12-26-2003; operative 2-24-2004 (Register 2003, No. 52).

2. Editorial correction ofHistory 1 (Register 2004, No. 2).

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EXHIBIT 3

April 4, 2006 letter of determination from the LEA

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

April 4, 2006

Wayne Fishback
3106 Calusa Ave.
Simi Valley, CA 93063

DETERMINATION OF REGULATORY OVERSIGHT FOR THE DISPOSAL OF SOLID WASTE INCLUDING INERT DEBRIS ON PROPERTY OWNED OR CONTROLLED BY MR. WAYNE FISHBACK LOCATED IN THE AREA KNOWN AS THE NORTH AMERICAN CUTOFF

The County of Ventura Environmental Health Division (EHD) is designated as the Local Enforcement Agency (LEA) in Ventura County pursuant to the Public Resources Code (PRC), Division 30, Part 4, Chapter 2. The LEA has the authority and responsibility to make decisions and/or determinations as to how State and local regulations apply to the storage, handling, and disposal of solid waste throughout Ventura County.

On February 22, 2006, representatives from the LEA and the California Integrated Waste Management Board (CIWMB) accompanied you and your representatives on a site inspection of your property. We observed two areas where solid waste consisting of concrete and brick had been deposited and a third area that is currently receiving this material. Subsequent to our site visit, the LEA received the following information concerning the solid waste disposal activity on your property:

1. Tonnages and dates when material was delivered to the site. This information was received via email dated March 28, 2006 from Wayne Fishback.

2. Several signed documents entitled "Statement of Facts" that list, among other information, the materials delivered, the name of hauling company, and the names of truck drivers. Listed material includes "clean concrete, clean dirt, clean cast concrete products, clean cast clay products, clean stucco, and mixtures of the above clean material." This information was received by EHD via a cover letter, dated March 27, 2006, from Ms. Kate Neiswender.

800 South Victoria Avenue, Ventura, CA 93009-1730 (805) 654-2813 FAX (805) 654-2480
Internet Web Site Address: www.ventura.org/envhealth

3. Several examples of delivery invoices from one of the hauling companies. The invoices identify the truck driver and the type of material delivered to the property.

4. Handwritten inspection notes that identify the dates and describe the various materials delivered to the property.

Based on our observations during the site visit and our review of the information described above, the LEA determined that the activity involving the types of solid waste material received and the final deposition of this material on the subject property is classified as an Inert Debris Type A Disposal Facility pursuant to the California Code of Regulations, Title 14 (14 CCR), Section 17388.4. Inert Debris Type A Disposal Facilities shall obtain a Registration Tier Permit as set forth in 14 CCR, Section 17388.4 and shall comply with the Registration Permit requirements set forth in 14 CCR, Section 18100.

This determination is based on the following:

1. The California Public Resources Code (PRC), Division 30, Part 1, Chapter 2, Section 40191, defines demolition and construction wastes as "solid waste".

2. 14 CCR, Article 5.95, Section 17388 (k) defines inert debris as "solid waste".....

3. Type A inert debris is defined in 14 CCR, Article 5.95, Section 17388(k)(1), as "waste" that includes but is not limited to concrete (including steel reinforcing bar embedded in the concrete), plaster, brick, clay and clay products; and does not contain soluble pollutants at concentrations of water quality objectives.

4. PRC, Section 40192, defines "solid waste disposal" or "disposal" as the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the State.

5. 14 CCR, Article 5.95, Section 17387, sets forth the permitting requirements, tier requirements, and minimum operating standards for operations and facilities that dispose construction and demolition (C&D) waste and inert debris.

6. The disposal of solid waste on the subject property does not qualify as an excluded inert debris engineered fill activity pursuant to 14 CCR, Article 5.95, Section 17388.2 (a)(3), nor as an inert debris engineered fill operation as set forth in 14 CCR, Article, 5.95, Section 17388.3, because the overall project exceeds/or will exceed one year; and no documentation has been provided that demonstrates that placement of the material has been designed by an engineer to act as a structural element of a

constructed work and has been placed under engineering inspection. To qualify as an "excluded inert debris engineered fill activity" or an "inert debris engineered debris fill operation", the 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 [14 CCR, Article 5.95, Section 17388 (g)].

To comply with the Public Resources Code, California Code of Regulations, and the Ventura County Ordinance Code with respect to the disposal of solid waste, the following information must be submitted to the Environmental Health Division by May 1, 2006:

1. Completed APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS, CIWMB Form E 83, and a deposit in the amount of $2,000.00. The deposit will be placed in a trust account and drawn against to cover the LEA costs for processing the solid waste permit application. Money left over at the end of the review process will be refunded. The application form is enclosed.

2. Completed EHD application form for a Solid Waste Health Permit and application fee in the amount $74.00. The application form is enclosed.

3. Provide a monthly tonnage report to the LEA by completing a Waste Receipt Questionnaire. The reporting form is due in the EHD/LEA office by the 15th of the month for the previous month's activity. The solid waste disposal activities on this property may be subject to the solid waste control fee set forth in the Ventura County Ordinance Code. A reporting form is enclosed.

If the above information is not submitted to the Environmental Health Division by the May 1, 2006, enforcement action may be initiated.

Be advised that compliance with State and local solid waste requirements does not relieve you as the owner and operator of the solid waste operation from the laws or regulations of any other County of Ventura Agency or department, including Public Works Agency Grading Section or other State agency or department.

EHD responses to issues in Ms. Kate Neiswender's March 17, 2006 letter and your March 31, 2006 email to Robert Gallagher will be addressed under a separate cover letter.

If you have any questions, please call Diane Hall at 805/654-2433. Additionally, as we discussed in our meeting on March 27, 2006, please call me at 805/654-2821 to schedule a follow up meeting if you wish to discuss our determination.

William C. Stratton

WILLLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

Enclosures (3):

1. CIWMB Form E 83
2. EHD application form for a Solid Waste Health Permit and application
3. LEA Waste Receipt Questionnaire

c: Cathleen Oliver, CIWMB (w/o Enclosures) Via fax: 916/319-7426
Chris Stephens, Ventura County RMA/Planning Division (w/o Enclosures)
Rod Nelson, LARWQCB (w/o Enclosures)
Keith Mashburn, Supervisor Mikels' Office (w/o Enclosures)
Marty Robinson, RMA (w/o Enclosures)
Robert Gallagher, EHD (w/o Enclosures)
Melinda Talent, EHD (w/o Enclosures) ✓
Pat Reyes, EHD Accounts Receivable (w/o Enclosures)

EXHIBIT 4

Cease and Desist Order

Ventura County Environmental Health Division
800 S. Victoria Ave., Ventura CA 93009-1730
TELEPHONE: 805/654-2813 or FAX: 805/654-2480
Internet Web Site Address: *www.ventura.org/envhealth*

CEASE AND DESIST ORDER
of the
VENTURA COUNTY LOCAL ENFORCEMENT AGENCY

800 S. Victoria Avenue
Ventura, CA 93009-1730

IN THE MATTER OF:	CEASE AND DESIST ORDER
Wayne Fishback 3106 Calusa Avenue Simi Valley, CA 93063	Public Resources Code Division 30, Part 5, Chapter 1, Section 45005

DATE: May 11, 2006

TO: Wayne Fishback
3106 Calusa Avenue
Simi Valley, CA 93063

Certified Mail #7001 0360 0004 2946 3537

CEASE AND DESIST ORDER ISSUED TO MR. WAYNE FISHBACK REGARDING OPERATION OF A SOLID WASTE FACILITY WITHOUT A PERMIT IN THE UNINCORPORATED AREA OF VENTURA COUNTY GENERALLY REFERRED TO AS THE NORTH AMERICAN CUTOFF ROAD.

WHEREAS, The Environmental Health Division of the Resource Management Agency, County of Ventura, is the certified Local Enforcement Agency (LEA) in Ventura County for solid waste laws and regulations promulgated by the State of California. As such, the LEA is authorized by Public Resources Code (PRC) to enforce such solid waste laws and regulations in Ventura County and to issue Cease and Desist Orders for that purpose.

WHEREAS, Mr. Fishback is the owner of property in the unincorporated area of Ventura County generally referred to as the North American Cutoff Road, where he is conducting solid waste disposal activities without a solid waste facility permit in violation of the Public Resources Code (PRC), Sections 44001 and 44002(a).

WHEREAS, Mr. Fishback is receiving truck loads of inert debris solid waste and disposing of this solid waste on his property in violation of the Public Resources Code (PRC), Sections 44001 and 44002(a) which requires that a person obtain a valid solid waste facilities permit authorizing said disposal activities.

NOW, THEREFORE, PURSUANT TO PUBLIC RESOURCES CODE SECTION 45005, MR. WAYNE FISHBACK IS HEREBY ORDERED TO:

1. Immediately cease all on-site activities for which a solid waste facility permit is required and desist from those activities until a valid solid waste facility permit authorizing the activities has been obtained.

2. Immediately cease the acceptance of any solid waste and fill material onto the subject property.

3. Immediately cease disposal of any solid waste and fill material, and the placement of soil on any solid waste or fill material.

TAKE FURTHER NOTICE:

If Mr. Fishback does not comply with this Cease and Desist Order, the LEA may petition the courts of this state for the following relief:

1. For injunctive relief: a) requiring compliance with this order or any standard adopted by the California Integrated Waste Management Board or the local enforcement agency; b) enforcing this Cease and Desist Order {PRC, Section 45014(b)}.

2. For imposition of the maximum civil penalties allowed by applicable law for each day of violation of applicable State Laws and regulations, not to exceed $10,000 per day {PRC, Section 45014(c) and 45023}.

IN ACCORDANCE WITH PUBLIC RESOURCES CODE, SECTIONS 44307 AND 44310, PERSONS SUBJECT TO THIS CEASE AND DESIST ORDER ARE HEREBY NOTICED THE FOLLOWING:

It is the right of Mr. Fishback to request a hearing to appeal this Cease and Desist Order. Any hearing shall be initiated by persons subject to this Order by filing a written request for a hearing to the Environmental Health Division, Local Enforcement Agency, within 15 days from the date this Order is served. The written request shall include a detailed statement of issues specific to the enforcement order in accordance with Public Resources Code Section 44310.

COUNTY OF VENTURA
ENVIRONMENTAL HEALTH DIVISION
LOCAL ENFORCEMENT AGENCY

BY: William C. Stratton

William C. Stratton, Manager
Environmental Health Division

DATE: May 11, 2006

c: Chris Stephens – Ventura County Planning Division
Marty Robinson – RMA
Robert Gallagher – RMA
Jarrod DeGonia – Supervisor Mikels' Office
Rod Nelson – LARWQCB
Dale Dean – Ventura County Resources Conservation District
Cathleen Oliver – CIWMB
Ray Guiterrez – PWA
Diane Hall - LEA

Ventura County Environmental Health Division
800 S. Victoria Ave., Ventura CA 93009-1730
TELEPHONE: 805/654-2813 or FAX: 805/654-2480
Internet Web Site Address: *www.ventura.org/envhealth*

Declaration
of
Diane Hall

COUNTY OF VENTURA
ENVIRONMENTAL HEALTH DIVISION
LOCAL ENFORCEMENT AGENCY

I, Diane Hall, hereby declare as follows:

I am employed as an Environmental Health Specialist for the Local Enforcement Agency (LEA) of the Environmental Health Division (EHD) of the County of Ventura. Pursuant to Public Resources Code Sections 43203 and 43209, the Environmental Health Division, acting as the LEA for the State of California, is designated to enforce laws and regulations for solid waste handling and disposal.

The allegations of the foregoing Cease and Desist Order dated May 11, 2006 are known to me of my personal knowledge to be correct. This knowledge was obtained by:

1. A site inspection conducted on February 22, 2006.
2. Review of all documentation provided my Mr.Fishback and/or his representatives.

I declare under penalty of perjury that the allegations contained in the Cease and Desist Order are based on personal knowledge and information.

Executed this date, May 11, 2006, Ventura, California.

Diane Hall

Diane Hall
Environmental Health Specialist IV
Local Enforcement Agency
Environmental Health Division

EXHIBIT 5

Notice of Appeal

APPEAL FROM CEASE AND DESIST ORDER OF THE VENTURA COUNTY LOCAL ENFORCEMENT AGENCY ("LEA")

In the matter of Wayne Fishback, regarding "Operation of a solid waste facility without a permit in the unincorporated area of Ventura County generally referred to as the North American Cutoff Road"

PLEASE TAKE NOTICE THAT Wayne Fishback hereby appeals from the Cease and Desist Order issued on May 11, 2006 on all legally permissible grounds, including but not limited to the following:

1) The Fishback grading operation are legally-conducted agricultural slope stabilization and erosion control activities, and is not subject to the regulations cited by the LEA

2) The Fishback grading operation is subject to the Ventura County Hillside Erosion Control Ordinance ("HECO"), as monitored and governed by the Ventura County Resource Conservation District ("RCD"). Prior to the RCD application, Fishback was informed by RCD that the slope stabilization and erosion control activities were exempt from regulation as less than 10% of the total ranch was being worked. The RCD has been working with Fishback to complete a HECO plan, which plan is exempt from the regulations cited by the LEA.

3) The clean fill utilized in the Fishback grading operation is not subject to the regulations cited by the LEA, and are protected by case law, Public Resources Code §§40000 *et seq.* Title 14 of the California Code of Regulations, Division 7, and Ventura County Ordinance 4308.

4) Similar grading operations in the County have not been targeted for investigation or permitting by the LEA; Fishback is being singled out for disparate treatment.

More detailed objections to the actions taken by the LEA have been included in letters to William Stratton, Diane Hall and others at the County. Those letters are attached and incorporated herein by reference.

All communications concerning this appeal must be directed to Kate Neiswender, as attorney for Wayne Fishback, at PO Box 24617, Ventura CA 93002 (805-649-5575).

Dated: May 26, 2006

Kate M. Neiswender, Attorney for
Appellant Wayne Fishback

April 28, 2006

Diane Hall, REHS Inspector
Environmental Health Department
Ventura County
800 S. Victoria Ave.
Ventura, CA, 93009

This confirms a telephone conversation between Diane Hall and Wayne Fishback on 4-26-06. The following should be noted.

1. Fishback queried why the letter dated 4-4-06 from Bill Stratton determined Fishback's activities and property to be a Title 14 CCR, Article 5.95, Section 17388.3 Type A Disposal Facility (Registration Tier requiring public hearing and CEQA review).

2. Ms. Hall responded that the County did not have sufficient information to classify it as anything else such as an Excluded Tier Inert Debris Engineered Fill Activity or a Notification Tier Inert Debris Engineered Fill Operation. The lack of engineering information was given as the specific issue.

I cannot understand this response for a variety of reasons. First putting aside the disagreement over whether my activities are a regulated disposal site versus an unregulated construction site, the three areas inspected should not exceed an Excluded activity as described above. I have provided the dates of construction activity which the County considers disposal activity. Area three was active prior to 2-24-04 (effective date of regs) and the other two are below the one year threshold for the Notification Tier. As an excluded activity engineering documentation is not required. However since my activities have been engineered for other reasons I have requested my lawyer to provide this information to you along with the qualifications of the professionals providing services on my project.

The one piece of documentation I am still working on is a letter of exemption for WDR's from the Los Angeles Regional Water Quality Control Board. This effort has been ongoing since early December which included a trip to Sacramento., I am enclosing two memos for background. You will note from these memos that I am the first in the LARWQCB region to request a WDR or letter of exemption. In fact people in Sacramento believe I am the first in the State. For my activities Jeff Barnickol and Joe Mellow believe the letter of exemption should be provided pursuant to Title 27 CCR Section 20090(h). To date none of the owners you have identified as operating a disposal site has provided a WDR or letter of exemption including Muranaka Farms, Ed Jefferson, Tom Crocker or Bill Miller. Also none of these landowners have been required to provide any engineering

information. These sites have been classified as either an excluded tier or notification tier which have far less requirements than a registration tier.

I believe it is clear I have been singled out for disparate treatment. I have carefully analyzed all of the sites the County claims are regulated under Title 14 CCR, Article 5.95 Section 17387 et seq. and several unregulated Recycle/Salvage operations. I believe that some of these operations, that are directly adjacent or in the Arroyo, Simi and Arroyo Los Posas, are causing major pollution in violation of the Federal Clean Water Act, California Poter Cologne Water Quality Control Act and flood plain impairment in violation of the Cobey-Alquist Flood Plain Management Act.

Muranaka Farms- Regulated
Cemex or Pre Con Inert Debris Salvage- Unregulated
Simi Valley Recycling Center- Unregulated

In contrast my activities are far removed from any water body; the work is designed to stabilize slopes, prevent erosion and minimize sediment runoff; inert materials are used that are diverted out of the wastestream and landfills; the work is accomplished in the most energy efficient way possible; all of which is beneficial to the environment and supports CIWMB and ERD's number one priority of waste reduction. Yet the County seems determined to characterize the protection of my property as an activity requiring far more stringent regulatory oversight than required by law or comparable enforcement. To make this comparison I am enclosing several photos of my property and other sites in the County. Again I cannot understand why EHD has singled me out for punitive action when there is such catastrophic pollution going on in the Colleguas Watershed much of which is directly under EHD supervision or perfectly obvious given signs that identify dumpsites to the public.

Regards,

Wayne

Enclosure
Photographs
Engineering Reports
Consultant Qualifications

May 4, 2006

William Stratton
Technical Services Section
Environmental Health Division
800 So. Victoria Ave.
Ventura, California 93009

Dear Bill,

I was encouraged by our discussion on 5-2-06 as it related to my past and current use of inert materials. First a couple of clarifications. There appeared to be some confusion over materials being imported as a result of swimming pool demolition. Prior to 5-1-06 the vast majority of material was dirt from newly excavated pools along with a small percentage of concrete from pool demolition and replacement. After 5-1-06 only dirt and other natural materials are being received from new excavations.

I would also like to clarify our proposed use of concrete, asphalt and other clean inert materials pursuant to my lawyer's letter on 4-17-06. The material referenced in her letter should have been classified under 14 CCR Section 17388.2(2) which provides for the stockpiling and recycling of these materials for construction purposes e.g. road base etc. I believe we have the right to do this within the two year restriction but I have halted the importation of this material pursuant to your letter, first paragraph and dated 04-27-06. With this clarification, if you agree that I have a right to import concrete, etc. for recycled road base please let me know at your earliest convenience. Parenthetically producing my own road base on site costs $4.oo per ton versus $15.00 a ton for delivered crushed rock. It is my understanding from CIWMB that 14 CCR Section 17388.2(2) was included as a particular engineered fill activity in order to control the storage period. If the storage period exceeds two years the site becomes a disposal site. The attached photos of Highway 101 in Oxnard and the Interstate 10 and 405 intersection are examples of 14 CCR 17388.2(2).

Based on our discussion I would like the following to be considered. As an attachment you will find some charts that attempt to organize the numerous definitions and descriptions of materials, activities, etc. pursuant to PRC 40000 et seq. and 14 CCR Articles 5.9, 5.95, and 6.0. Also a flow diagram of solid waste and recycled/reusable materials as they move through the "wastestream" or are diverted into the "economic mainstream". The codes, regulations and ordinances are not clear about the point at which solid waste changes into "feedstock" or beneficial use materials when salvaged or recycled. In fact V.C. Ordinance 4308, Section 4741-25 defines both Recyclables (solid waste prior to recycling) and Recycled Materials (after recycling) "means all solid waste that is identified for Diversion...". This gives the impression and supports your premise, as I understand it, that recycled material is solid waste. It is not until you read the

definition of diversion that I believe makes the point that materials, once recycled or salvaged for reuse, cease being solid waste. Per V.C. Ordinance Section 4741-13 "Diversion" means activities that reduce or eliminate the amount of solid waste from solid waste disposal and which return these materials to the economic mainstream...". Based on these and other definitions I constructed the flow chard that illustrates the process of various materials e.q. solid waste, debris for processing, recyclable material and salvaged material moving through the "wastestream" and/or the "economic mainstream". For easy reference I also put together a synopsis of applicable Codes, Regulations and V.C. Ordinances which is attached. Finally in making the point please consider your business card that makes the statement "100% recycled paper". I assume the business card having been recycled and having beneficial use would not still be considered solid waste.

The other problem we seem to be dealing with is understanding the materials and their use that are regulated or under other conditions are unregulated. In particular 14 CCR organizes materials, facilities and activities into a hierarchy of regulated Tiers and other materials and activities that are unregulated. The hierarchy is organized by the most regulated materials etc. to the least regulated. See attached chart.

One of the problems that the attached charts attempt to clarify is that the same materials occur in multiple levels of regulation including no regulation. For example broken concrete and fully cured asphalt are specifically called out in the following definitions or Tier descriptions:

C& D Debris 17381(e)(1)(A)
Inert Debris Type A 17381(k)(1)
Inert Debris Engineered Fill Operation 17381(l)
Inert Debris Type A 17388(k)(1)
Inert Debris Engineered Fill Operation 17388(l)
Inert Debris Engineered Fill Activity 17388(2)(2)
Fill 17388(h)

Concrete and Asphalt are assumed to be in these definitions or tier descriptions by cross reference to the above definitions

CDI Debris 17381(c) Reference 17381(k)(1)
CDI Waste 17388(c) No Materials called out?
CDI Waste 17388(b) Reference 17388(k)(1)
Inert Debris Engineered Fill Activity 17388.2(3) Reference 17388(k)(1)
Engineered Fill Activity 17388(g) Reference 17388(h)
Grading 17388(j) Reference 17988(h)

Given these classifications of concrete and asphalt, it seems obvious to me that concrete under "Fill" is not regulated in the same way as concrete under "CDI Waste". As I understand the Regs "Fill" is unregulated while "CDI" disposal

requires a full permit. Other classifications include Excluded, Notification and Registration Tiers.

We also discussed the issues of the one year time limitation on "Inert Debris" 14 CCR Section 17388.2(3) and what constitutes a project that is subject to the one year time limitation. It appears to me that the definition of an Engineered Fill Activity provides guidance. This definition describes this as a "specific project" under 14 CCR Section 17388(g) which would infer multiple one year "specific projects" (self contained projects) would be allowed. The regulations presumably do not intend to limit a property owner to a single lifetime "specific project". However each "specific project" would be limited to one year. Additionally if we assume that such projects are administered by V.C. Resource Conservation District or V.C. Public Works Development and Inspection Services there is good oversight. Further if a person limits the materials to concrete and asphalt "Fill" pursuant to 17388(h) and follows 17388(g) and 17388(j) the one year limitation should not apply. Keep in mind however that even this is regulated in so far as a person is required to have engineered specifications and oversight if it is a disposal activity.

Finally while I don't want to "nitpick" your 4-27-06 letter there are two positions I want to comment on. In your fourth paragraph you appear to imply that only a person who generates C&D debris has a right to import inert materials for construction purposes. It is counter intuitive to set up a pre requisite that solid waste must first be produce to gain the right to import and reuse salvaged inert materials. It is far more logical to infer that if a person who generates C&D debris can import additional debris certainly a person who does not generate waste has the same right.

A second concern is your fifth paragraph that properly concludes that my activities are not a transfer or operating facility but then leaps to the conclusion that I am operating a disposal site. This simply ignores all of the things that are unregulated under Articles 5.9 and 6.0. Hopefully the attached Chart and Flow Diagram will illustrate why I never get to Article 5.95 Disposal Regulations.

Can we meet to further discuss?

Regards,

Wayne Fishback

May 18, 2006

William Stratton
Technical Services Section
Environmental Health Division
800 South Victoria Avenue
Ventura, California 93009

RE: William Stratton's punitive actions against Wayne Fishback and his activities related to protection of property.

Mr. Stratton:

I was deeply disappointed by your various actions enumerated below during the week of 5-9-06. You chose to ignore the regulations you purport to enforce, disregard voluminous evidence of my activities, discredited the work of highly qualified professionals and subvert the goals of the California Integrated Waste Management Board (CIWMB).

5-9-06 Telephone Conversation

I placed this call to you in order to get your response to my correspondence to you on 5-4-06 and correspondence to Diane Hall on 4-28-06. At this point there is no purpose in arguing my position but I do want to make note of your comments regarding engineering information provided to you. You indicated this information was of no value as it did not provide any of the engineering required for an Inert Debris Engineered Fill Activity (IDEFA) or an Inert Debris Engineered Fill Operation (IDEFO). I was dumb founded at your comment. You admonished me that as an architect I should know this. You continued by explaining there were no compaction reports, no soil boring analysis and certain regulatory terms such as engineered fill "geometry" were missing and the engineers description of work was prospective and not directed to the work in place. I reminded you I was not required to provide you or the Environmental Health Department (EHD) any engineering information but was doing so to cooperate and eliminate any concerns regarding health and safety issues. The information provided you and your response is an outrage when compared to other Inert Debris Engineered Fill Activities or Operations. The only similar information to be found in the public records are these comments by a contractor for the Farm Restoration Project SWIS # 56-AA-0144. The Operation Plan States "The method of dumping, spreading, compacting and leveling to final grade is done in accordance with Best Management Practices and complies with State Minimum Standards." "The compaction standards for relative density do not apply for areas sued to support farming activities. The method of placement of solid waste such as concrete is done with heavy equipment and pushed into the fill so that pieces are chocked with dirt and nesting of materials is controlled. Compaction is performed by equipment placing the inert materials to control settlement and subsidence." To my knowledge this project has had no engineering oversight. It is absurd for you

Mr. Stratton, with no engineering qualifications to criticize the engineering oversight I have provided for my project. You also mentioned there was no engineered plan. I have attached the plan for my property and the plan on file with EHD for the Farm Restoration Project. You will note the latter outlines nothing more than the fill area on the representative Thomas Guide page. I ended our conversation by stating once again that the areas of salvaged inert materials used on my property were there to address landslide and debris flows during the '04-'05 record rains. (Ventura County was declared a federal disaster area), to control erosion and sediment runoff particularly after the 05 wildfire and with construction work being done to local, state and federal recommendations (see four enclosures) and with the oversight of civil engineers, geotechnical engineers, environmental specialists, legal analysis and my own architectural background. Even assuming my activities require EHD/LEA oversight the appropriate level would be an excluded activity for the use of inert materials other than natural materials e.q. dirt, rock, sand, gravel. Since all of my specific projects taken together do not exceed the one year time restriction. By classifying my activities into a Registration Tier Permit requirement you have effectively denied me the appropriate "permit". Further your actions against me are punitive and totally disparate from that accorded to Burhoe/Muranaka Farms, Ed Jefferson, Bill Miller and Tom Crocker. As I explained to you the engineering work, government oversight by multiple agencies at the Federal, State and Local level and information provided to you far exceed the requirements you placed on the other projects just referenced.

5-10-06 Ventura County Resource Conservation District Meeting (VCRCD)
I attended this VCRCD Board of Director's meeting to answer any questions regarding my application for a cooperative agreement with the VCRCD for a Hillside Erosion Control Plan. You attended this meeting to inform the Board that EHD had jurisdiction over my grading activities that involved inert materials with or without VCRCD approval. Your comments led to an hour long debate as to whether my application should be approved. Ultimately the Board followed Dale Dean's recommendation to approve my application with the entire Board voting to approve except for one vote to deny. The approval of my application appeared to be your only interest in the meeting as you abruptly left after the vote took place. I believe your actions at this meeting are unprecedented whereby one agency tries to influence another agency against a private citizen who's trying to do the right thing.

5-11-06 Meeting of Various Ventura County Agencies
A meeting was held to review material that I had provided to Ray Gutierrez on 3-24-06. (See attached memo for background) Agencies in attendance were Development and Inspection Services, Watershed Protection District and Resource Management Agency including Melinda Talent, Todd Collard and Gloria Goldman. The photographic material and topographic plans document an environmental disaster and actions by property owners, under EHD's supervision, that are enormously financially damaging to the public. Unlike

RMA's vindictive attack on me RMA primarily expressed concerns about the time frames of photographs, whether trespassing had taken place to take photos and whether the photographed activities were done under permit. As I understand it RMA seemed more interested in squelching an investigation than actively supporting it. This appears consistent with the fact that Melinda Talent, Supervisor of EHD's Solid Waste Department, became aware of this information on 3-24-06 while at the same time dumping directly into the Arroyo Las Posas under EHD's supervision continues unabated to this day. EHD was also shown many other dumpsites along and into the Arroyo Las Posas that continue to this day.

5-12-06 Receipt of Cease and Desist Order

Under your signature you issued to me a cease work order of my construction activities that were taking place to protect my property and the waters of the State. On 5-2-06 I warned you of the consequences of such an action. You and the County have ignored this warning. In addition to financial damages you will be responsible for impeding the completion of my erosion control and slope stabilization measures that my lead to substantial sediment runoff during the next wet season. Pollution runoff will not be my responsibility for reusing to comply with your erroneous and malicious order to apply for a solid waste disposal facility permit. Finally throughout this ordeal you have steadfastly refused to acknowledge a priority of the CIWMB which is to reuse materials that would otherwise become solid waste. Further you simply ignore the regulations and voluminous CIWMB supporting documentation on its website that describes the beneficial use of inert materials that do not require permitting as follows:

Insert CIWMB info

Regards,

Wayne

EXHIBIT 6

Hillside Erosion Control Ordinance

ORDINANCE NO. 3683

AN ORDINANCE REVISING THE VENTURA COUNTY HILLSIDE EROSION CONTROL ORDINANCE TO, AMONG OTHER THINGS, INCREASE THE PENALTIES

The Board of Supervisors do hereby amend Ordinance No. 3539, the Ventura County Hillside Erosion Control Ordinance as follows:

Section 1.04. DEFINITIONS (AMENDED TO INCLUDE THE TERM "VIOLATION" AS FOLLOWS:)

Violation - The act of violating any of the provisions of this ordinance. Each and every day or portion thereof during which a violation is committed, continued or permitted is a separate offense. A violation can be committed by a person who does the act, causes or permits the same to be done, or owns, occupies, or controls the land upon which, or regarding which, the act is done.

Section 2.01. APPROVED HILLSIDE EROSION CONTROL PLAN.

Except as indicated below, no person shall commence or continue to perform any clearing of vegetation and/or earth moving for new agriculture or which will cause a change in agricultural use in the critical erosion area designated on the official Erosion Hazard Maps, Southern Ventura County, on file with the County Public Works Agency and the R.C.D. without first having obtained approval of a Hillside Erosion Control Plan from the R.C.D. and conforming thereto.

The plan shall be reviewed by the R.C.D. for conformance with this ordinance. If approved, a copy of the plan shall be filed with the Public Works Agency.

Section 6.01 APPEAL - RIGHT AND PROCEDURE

Any person aggrieved by the refusal of the R.C.D. to approve a Hillside Erosion Control Plan, hereinafter referred to as "plan" pursuant to this ordinance, or by the imposition of a condition on such plan, or any person who has received a Determination of Violation from the Enforcing Officer or who has thereafter failed to obtain a Notice of Compliance, may appeal to the Board of Supervisors of the County within 90 days after the date of such refusal or imposition of such condition by filing with the Clerk of the Board of Supervisors a request that the Board review the decision of the R.C.D. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall have attached a copy of the plan as submitted to the R.C.D. and a copy of the proposed conditions on the plan and shall state clearly and concisely the reasons which the person aggrieved relies on for his appeal.

The Clerk of the Board shall set the matter for hearing within 60 days after the notice is filed with said Clerk and shall notify the person aggrieved and the R.C.D. of the date set for hearing on the matter. At the hearing, the appellant shall have the burden of establishing to the satisfaction of the Board that he is entitled to approval of the plan or modification or deletion of conditions under the provisions of this ordinance, or whatever other relief he requested. The decision of the Board is final.

The Board shall approve the plan or modify or delete the conditions as sought for by said appeal, if: (1) it finds all of the following to be true:

(a) That the applicant would suffer substantial injury or detriment by the refusal to approve the plan or modify or delete the conditions;

(b) That no other method of obtaining the desired results is more reasonable or less likely to be hazrdous than that proposed by the applicant; and

(c) That the approval of the plan or the modification or deletion of conditions would not be materially detrimental to the public interest, safety, health and welfare, and would not create a substantial risk of hazard of erosion, sedimentation, debris, or mudflow to persons or property, or of interference with, impairment of the use of, or damage to any erosion control or flood control facility, storm water drainage, or water conservation facility, structure or right of way in a watercourse, or substantially degrade water quality; or

(2) if it finds the requirements of subparagraphs (a), (b) and (c) above can be satisfied by the imposition of reasonable conditions.

ARTICLE VII. ENFORCEMENT

Section 7.01 COMPLAINTS

Complaints of work taking place in violation of this ordinance will be investigated by the County.

Section 7.02. PENALTIES FOR VIOLATIONS

Any person who:

(a) Violates any provision of this ordinance; or

(b) Refuses without lawful excuse to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for in the Uniform Code; or

(c) Fails, neglects, or refuses to obey any order of the enforcing officer or the Board of Supervisors of the County of Ventura made pursuant to the provisions of the "Uniform Code", and directed to such person, after such order shall be final,

shall be deemed guilty of an infraction/misdemeanor. Conviction of an infraction shall be punishable by (1) a fine not exceeding one hundred dollars ($100) for the first violation; (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same ordinance within one year. Conviction of a misdemeanor shall be punishable by a fine of not more than $1000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 8.01. DETERMINATION OF VIOLATION, RECORDATION OF DOCUMENTS AND EFFECT OF VIOLATION.

When the Enforcing Officer has determined that work has commenced or is continuing to occur in violation of this ordinance, he may issue, by certified mail, a written Determination of Violation to the violator and all others entitled to such notice under the Uniform Code. If, within 30 days after mailing of such determination, any recipient thereof appeals to the Board of Supervisors, the Board shall conduct a hearing. If there is no appeal or if the appellant does not prevail before the Board, the Enforcing Officer shall record a Determination of Violation with the County Recorder with respect to the property. The Enforcing Officer shall immediately record a Notice of Compliance when it is determined, either by himself or the Board, that the violation no longer exists. A Deterimination of violation shall, whether or not recorded, preclude the issuance of further zoning clearances on the property until it is determined the violation no longer exists.

PASSED AND ADOPTED this 20th day of March, 1984, by the following vote:

AYES: Supervisors Jones, Erickson, Dougherty, Flynn and Lacey.

NOES: None.

ABSENT: None.

Susan K. Lacey
Chair, Board of Supervisors

ATTEST:

RICHARD D. DEAN, County Clerk,
County of Ventura, State of
California and ex officio Clerk
of the Board of Supervisors thereof.

By Shirley Weeks
Deputy Clerk

COUNTY OF VENTURA CALIFORNIA

ORDINANCE NO. 3539

AN ORDINANCE RELATING TO THE CONTROL OF WATER QUALITY, SOIL EROSION AND SEDIMENTATION OF NEW AGRICULTURAL HILLSIDE DEVELOPMENTS

The Board of Supervisors of the County of Ventura, do ordain as follows:

ARTICLE 1. TITLE, PURPOSE, SCOPE, GENERAL PROVISIONS

Section 1.01. TITLE.

This ordinance shall be known as the Ventura County Hillside Erosion Control Ordinance.

Section 1.02. PURPOSE.

The purpose of this ordinance is to reduce nonpoint source water pollution, to reduce degradation of water quality, to improve water quality, to control erosion and production of sediment, and to reduce related environmental damage by establishing minimum standards and providing regulations within new agricultural developments for the construction and maintenance of fills, excavations, cut and clearing of vegetation, revegetation of cleared areas, terraces, diversions, improved irrigation and drainage control in critical erosion areas, as well as for the protection of exposed soil surfaces in order to promote the safety, public health, convenience, and general welfare of the community.

Section 1.03. SCOPE.

This ordinance shall provide for the approval of Hillside Erosion Control Plans in the "critical erosion area" (designated on the official Erosion Hazard Maps, Southern Ventura County, on file with the Public Works Agency and the Ventura County Resource Conservation District) within the unincorporated territory of Ventura County including:

(a) Fees

(b) Review and approval

(c) Exceptions

(d) Appeals

(e) Submittal for approval of Hillside Erosion Control Plan

(f) Contents of Hillside Erosion Control Plan

(g) Standards

(h) Implementation

Section 1.04. DEFINITIONS.

The following definitions shall apply to this ordinance:

Best Management Practices - A practice or combination of practices and treatments for soil and water conservation that is determined to be the most effective, practicable (including technological, economic and institutional considerations) means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals; applicable as Resource Management Systems.

Board - Board of Supervisors County of Ventura.

Building Permit - A permit issued by a governmental agency that authorizes the construction of a physical structure, including land preparation.

Clearing - (Land preparation) - The removal of plants, shrubs, trees, and roots thereof, structures, or other objects from the surface of the land.

County - The County of Ventura, California

Critical Erosion Area - The area with erosion hazard of soils severe to very severe which has been delineated on the official Erosion Hazard Maps, Southern Ventura County.

Debris - Loose material arising from the disintegration of rocks and vegetative material and any man made material; transportable by storm water runoff, streams or floods.

Drainage - The removal of surface water or groundwater from land by means of surface or subsurface drains.

Drainageway - Natural depression in the earth's surface or man-made channels or depressions in which surface waters collect as a result of rain or melting snow, but at other times are destitute of water.

Drainage Control Facility - A device for controlling drainage; a structure designed to regulate the flow rate or course of runoff water.

Emergency - An unforeseen combination of circumstances and the resulting state that causes a pressing need for immediate action.

Enforcing Officer - The Director of the Public Works Agency of the County of Ventura, or his designated representative.

Erosion - The wearing away of the land surface by running water, wind, ice, or other climatic and geological agents, including such processes as gravitational creep, or mass wasting.

Excavation - Any activity by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

Fill - A deposit of earth material placed by artificial means; any act by which earth, sand, gravel, rocks or any other material

is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface and shall include the conditions resulting therefrom.

Flood Control Facility - Any watercourse, channel, dam, basin, or related structure or installation for the control of storm water runoff.

Flood Damage - Any excessive damage to natural or man-made resources resulting from storm water runoff.

Grading Permit - A permit issued by the County of Ventura in conformance with Chapter 70 of the Uniform Building Code as amended by the County of Ventura.

Groundwater Table - The upper surface of the groundwater or that level below which the soil is saturated with water.

Hillside Erosion Control Plan or Plan - (Resource Conservation Report) A plan which fully indicates necessary land treatment and structural measures, installations and treatments, which effectively minimize soil erosion and sediment and debris yield.

Hillside Erosion Control Plan Condition or Plan Condition - A requirement that will be executed in accordance with the Plan.

Land Disturbance - Any activity involving the clearing, grading, filling and any other activity which causes land to be exposed to the danger of erosion.

Land Preparation - The conditioning of land including clearing, land leveling for related gradient control, and soil preparation for seeding, planting and replanting of crop land or soil protection developments.

Landslide - Earth materials which are moving or have moved downward on a hillside slope as a result of the action of external forces such as gravity, seeping water, earthquakes, or a combination thereof.

Long-Term Erosion - The erosion that accumulates over an extended period of time, generally over a term greater than 2 years; erosion that is considered to be in equilibrium with natural geological processes.

Mudflow - A flowage of saturated soil or soil material down a hillside due to the accumulation of a large amount of water in the ground.

Nonpoint Source Water Pollution - Pollution that is generated by diffused land use activities, conveyed to waterways through natural processes such as storm runoff, which is controllable by changes in land management practices.

Native Vegetation - The plants, shrubs, trees and roots thereof, which grow naturally or have become adapted to a local environment without being planted or cultivated by man.

Original Surface - The surface of the ground at the time of the initial investigation of a proposed project prior to any proposed land modification.

Parcel - A parcel of real property as defined by the County Assessor of the County of Ventura, California.

Person - Any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, trust, business trust, receiver, syndicate or any other group or combination acting as a unit, and the plural as well as singular members.

Physical Land Condition Report - A written summary containing data describing physical conditions including: land use, topographic relationships, geology and hydrology relationships, critical site limitations, land treatment measures, and any other significant data relating to the land.

Prompt Establishment of Protective Vegetation - Normally less than 1 year or until sufficient rainfall has occurred to provide water for growth of vegetation.

Public Nuisance - Any condition which threatens the health, safety, property or general welfare of the public.

Public Works Agency - Ventura County Public Works Agency.

R.C.D. - The Ventura County Resource Conservation District, 3360 Somis Road, Somis, California.

Sedimentation - The process by which mineral or organic matter is removed from its site of origin, transported, and deposited by water, wind or gravity.

Short-Term Erosion - Erosion which may occur prior to the establishment of vegetation or other approved erosion control measures; generally that erosion occurring over a term of up to two years.

Soil Conservation Service Land Capability Classification - A classification adopted by the United States Department of Agriculture Soil Conservation Service defining the ability of the land to produce under specified uses and conservation treatments with due regard to the inherent limitations and hazards of the land.

Soil Series - A category of soil classification in which soils with similar sequences of natural layers are grouped together and named; soils that are essentially alike in all major profile characteristics, with the exception of surface texture.

Soil Type - A subdivision of a soil series consisting of or describing soils that are alike in all characteristics, including soil texture.

Storm Water Drainage - Drainage resulting from any rainfall.

Ten-Year Frequency Rainstorm - A rainstorm of such intensity that, on the average, could be expected to be equalled or exceeded once every ten years in a twenty-four (24) hour period; a rainstorm of such intensity that has a ten percent chance of being equalled or exceeded in any given year.

Uniform Code - Uniform Code for Abatement of Dangerous Buildings, 1979 edition.

Vegetation - The plant life (flora) which covers the ground surface of an area.

Watercourse - A permanent stream; intermittent stream, river, brook, creek, channel or ditch for water, whether natural or man-made.

Water Conservation Facility - A structure or installation which is used for the preservation and protection of water resources; structure designed to increase water infiltration and reduce runoff.

Watershed - All the land and water within the confines of a drainage divide.

Water Quality - The condition or property of water characterized by the amounts of total dissolved solids, turbidity, odor, and other chemical, biological, and physical substances relative to the needs created by an intended use of a particular source of water.

Section 1.05. RULES APPLYING TO TEXT.

For the purpose of this ordinance, certain rules of word usage apply to the text as follows:

(a) Words used in the present tense include the future tense, and the singular includes the plural unless the context clearly indicates the contrary

(b) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.

(c) Words not defined by this article shall be used with their common meaning.

(d) If a term used herein is contained in another adopted ordinance or statute, the more restrictive definition shall prevail.

ARTICLE II. PROCEDURE

Section 2.01. APPROVED HILLSIDE EROSION CONTROL PLAN.

Except as indicated below, no person shall commence or perform any clearing of vegetation and/or earth moving for new agriculture or which will cause a change in agricultural use in the critical erosion area designated on the official Erosion Hazard Maps, Southern Ventura County, on file with the County Public Works Agency and the R.C.D. without first having obtained approval of a Hillside Erosion Control Plan from the R.C.D. and conforming thereto.

The plan shall be revised by the R.C.D. for conformance with this ordinance. If approved, a copy of the plan shall be filed with the Public Works Agency.

Section 2.011. EXCEPTIONS.

An approved plan shall not be required if, during a period of 12 consecutive months, the work meets any of the following conditions:

(a) The area of clearing of native vegetation, excavation, fill or combination thereof does not exceed 10% of a parcel or 25 contiguous acres of land under one owner, whichever is less.

(b) An excavation or fill is authorized by a valid grading, building, well, or conditional use permit. This exception does not affect the requirement of a Hillside Erosion Control Plan for any fill made with the material from such excavation.

(c) Upon detailed review of the data submitted on the location and site specific conditions of the proposed work, the R.C.D. determines that an erosion control plan is not required. The R.C.D. shall notify the land owner, or his representative, in writing of the exception.

Section 2.02. SUBMITTAL FOR APPROVAL OF HILLSIDE EROSION CONTROL PLAN.

The submittal for approval of a Hillside Erosion Control Plan to R.C.D. shall include:

(a) A location map showing the drainage and watershed position, and parcel boundaries plotted on a United States Geological Survey 7.5 minute topographic map;

(b) Proposed work plan with reasonable scale not to exceed a maximum scale of 500 feet to one inch, existing and finished contour intervals not greater than 20 feet shown for all the area to be cleared or prepared, plus a minimum of 100 feet in all directions beyond the area to be cleared or prepared; and including the contents specified in Article III.

(c) A physical land condition report indicating soil series and type, designation of Soil Conservation Service Land Capability Classification, geologic features such as landslides and any other critical area conditions such as gullied areas, severe erosion, etc.

ARTICLE III. CONTENT OF HILLSIDE EROSION CONTROL PLANS

Section 3.01. REQUIREMENTS.

(a) The Hillside Erosion Control Plan shall contain appropriate information according to this article. The plan shall also conform to the requirements in the sections on "Standards" and "Implementation" of Articles IV and V, respectively.

(b) The plan shall be prepared by a person or firm qualified by training and experience to have expert knowledge of runoff, erosion and sediment control treatments including drainage and

related land management conservation techniques. The R.C.D. may, when requested, assist with the preparation of Hillside Erosion Control Plans with available assistance from the Soil Conservation Service and designated persons or firms doing the planning work.

(c) Formulation and implementation of the proposed measures may be adopted from recommendations contained in the Soil Conservation Service Field Office Technical Guide, which is on file with the R.C.D.

Section 3.02. DRAINAGEWAY PROTECTION AND CONTROL MEASURES.

Where it is determined necessary by the R.C.D. to reduce the increased rate and volume of rainfall runoff due to the alteration of the runoff pattern, the following data shall be provided:

(a) The runoff rate and volume to be expected from a 10-year, 24-hour frequency rainstorm for conditions existing before and after the proposed land disturbance.

(b) The location of natural and man-made drainageways.

(c) The size of drainage areas above cuts and slopes.

(d) The methods to be used to reduce erosion of drainageways.

(e) The procedures used to trap sediment in order to protect drainage control facilities.

(f) The methods used to prevent or control the rate and direction of runoff on roadways during and after land disturbance.

(g) The methods used to control runoff across the slopes of cuts and fills and graded areas during and after land disturbance.

(h) The schedule for construction of drainage protection and control measures.

(i) The method and schedule for construction of waterway crossings.

Section 3.03. SEDIMENT DETENTION MEASURES.

Information on the design criteria of sediment basins shall include the following:

(a) The location and dimensions of the sediment basins.

(b) The hydrologic and sediment transport data used to determine the proper capacity of the needed basin.

(c) The construction procedure and schedule.

(d) The source of borrow material.

(e) The maintenance schedule.

(f) The type and manner of vegetating the erodible slopes.

Section 3.04. WORK SCHEDULE

A work schedule shall be provided. No work shall be permitted on the site until the schedule has been approved as a part of the plan.

The R.C.D. shall check the adequacy of the schedule with respect to the factors that could contribute to both short-term and long-term erosion on the project site.

The work schedule shall be checked for prompt establishment of protective vegetation with full recognition of climatic and other factors that influence its establishment.

Section 3.05. MAINTENANCE OF FACILITIES

Any vegetative, cleared, or constructed facilities that are installed to provide erosion and sediment control shall be maintained by the landowner in a condition sufficient to perform their intended function.

ARTICLE IV. STANDARDS

Section 4.01. GENERAL

The Hillside Erosion Control Plan shall conform to the standards described in the applicable Resource Management Systems (Best Management Practices) as contained in the United States Department of Agriculture, Soil Conservation Service Technical Guide Covering Ventura County, which Best Management Practices are hereby incorporated herein as though fully set forth at this point. The Handbook is available for inspection at the R.C.D.

ARTICLE V. IMPLEMENTATION

Section 5.01. AUTHORITY AND RESPONSIBILITY.

All land preparation shall be conducted and soil erosion and sediment control measures shall be installed in compliance with this ordinance and in accordance with the approved Hillside Erosion Control Plan. Upon completion of the work and certification by the R.C.D., the property owner shall notify the County in writing that such work was done in accordance with the approved Hillside Erosion Control Plan and includes a copy of the approved as-built plan.

All soil and sediment control measures shall be adequately maintained to insure that they will continue to perform the intended function of erosion and sediment control.

ARTICLE VI. APPEAL

Section 6.01 APPEAL - RIGHT AND PROCEDURE

Any person aggrieved by the refusal of the R.C.D. to approve a Hillside Erosion Control Plan, hereinafter referred to as "plan" pursuant to this ordinance, or by the imposition of a condition on such plan, may appeal to the Board of Supervisors

of the County within ninety (90) days after the date of such refusal or imposition of such condition by filing with the Clerk of the Board of Supervisors a request that the Board review the decision of the R.C.D. The appeal shall be in the form of a written notice and shall be signed by the person aggrieved. The notice shall have attached a copy of the plan as submitted to the R.C.D. and a copy of the proposed conditions on the plan and shall state clearly and concisely the reasons which the person aggrieved relies on for his appeal. The Clerk of the Board shall set the matter for hearing within sixty (60) days after the notice is filed with said Clerk and shall notify the person aggrieved and the R.C.D. of the date set for hearing on the matter. At the hearing, the person aggrieved shall have the burden of establishing to the satisfaction of the Board that he is entitled to approval of the plan or modification or deletion of conditions under the provisions of this ordinance, otherwise the action of the R.C.D. shall stand. The decision of the Board is final.

The Board shall approve the plan or modify or delete the conditions as sought for by said appeal, if: (1) it finds all of the following to be true:

(a) That the applicant would suffer substantial injury or detriment by the refusal to approve the plan or modify or delete the conditions;

(b) That no other method of obtaining the desired results is more reasonable or less likely to be hazardous than that proposed by the applicant; and

(c) That the approval of the plan or the modification or deletion of conditions would not be materially detrimental to the public interest, safety, health and welfare, and would not create a substantial risk of hazard of erosion, sedimentation, debris, or mudflow to persons or property, or of interference with, impairment of the use of, or damage to any erosion control or flood control facility, storm water drainage, or water conservation facility, structure or right of way in a watercourse, or substantially degrade water quality; or

(2) if it finds the requirements of subparagraphs (a), (b) and (c) above can be satisfied by the imposition of reasonable conditions.

ARTICLE VII. ENFORCEMENT

Section 7.01 COMPLAINTS

Complaints of work taking place in violation of this oridinance will be investigated by the R.C.D. who shall notify the County of observed violations.

Section 7.02 PENALTIES FOR VIOLATIONS

Any person who:

(a) Violates any provision of this ordinance; or

(b) Refuses without lawful excuse to attend any hearing or

to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for in the Uniform Code; or

(c) Fails, neglects, or refuses to obey any order of the enforcing officer or the Board of Supervisors of the County of Ventura made pursuant to the provisions of the "Uniform Code, and directed to such person, after such order shall become final,

shall be deemed guilty of an infraction and, upon conviction thereof, shall be punishable by (1) a fine not exceeding fifty dollars ($50) for the first violation; (2) a fine not exceeding one hundred dollars ($100) for a second violation of the same ordinance within one year; (3) a fine not exceeding two hundred fifty dollars ($250) for each additional violation of the same ordinance within one year.

ARTICLE VIII. NUISANCE ABATEMENT

Section 8.01 NOTICE OF VIOLATION

When the Enforcing Officer is notified in writing by the R.C.D. that work is being performed in violation of this ordinance or previously approved work is not being maintained or work not in conformance with a plan approved pursuant to this ordinance is being performed, he may issue a Notice of Violation to the violator and all others entitled to notice under the Uniform Code.

Section 8.02. WARNING TO ABATE NUISANCE

A violation of Section 2.01 is hereby declared to be a public nuisance and may be abated. The Enforcing Officer shall notify the violator and all others entitled to notice under the the Uniform Code by certified mail to abate the nuisance by a specific date. The notice shall indicate that in the event the nuisance is not abated, the County may do so and assess the costs of the abatement to the violator or the property.

Section 8.03. ISSUANCE OF RESTRAINING ORDER

If a violator does not abate a nuisance after being notified to do so in conformatnce with this ordinance and/or work is continuing to be performed that is in violation of the ordinance, the Enforcing Officer may request the appropriate court of jurisdiction to issue a restraining order to prohibit additional work.

Section 8.04. NUISANCE ABATEMENT BY COUNTY

If a violator does not abate a nuisance after being notified to do so in conformance with this ordinance, the nuisance may be abated by County. In the event of abatement by County, the costs of such abatement shall be assessed to the violator or the property. In the latter case, the assessment shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and the same procedure for sale in case of delinquency as provided for ordinary taxes.

All laws applicable to the levy, collection and enforcement of County taxes shall be applicable to such assessment. The procedure established for the repair, vacation or demolition of dangerous buildings by the Uniform Code to the extent it can reasonably be applied to violations of Section 2.01 hereof, is hereby incorporated herein as though fully set forth at this point, provided that for purposes of said Uniform Code, the Enforcing Officer shall be deemed to be the "Building Official".

Section 8.05. EMERGENCY ABATEMENT

If the Board determines that any emergency exists because of a violation of Section 2.01, then without following the procedure established by Section 8.01, 8.02, and 8.04, the Enforcing Officer may order all work done necessary to remove, abate or mitigate the condition creating such emergency. The Enforcing Officer may do the work with his own employees or may contract to have the work done; in either event, the Enforcing Officer shall keep a record of the cost of the work and charge the cost of the work to the violator, who shall repay the County for the cost thereof. If the violator does not voluntarily repay the cost, the amount shall be; assessed to his property and collected as provided in Section 8.04 hereof.

ARTICLE IX. FEES

Section 9.01 FEES

A schedule of fees for County staff services related to this Ordinance shall be adopted by resolution of the Board of Supervisors of the County. No other County fees will be required.

ARTICLE X. SEVERABILITY

Section 10.01 SEVERABILITY

If any section, subsection, sentence, clause, phrase or other portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion or portions of this ordinance. The Board of Supervisors of the County of Ventura hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or any portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases or other portions be declared invalid or unconstitutional.

ARTICLE XI. APPLICABILITY

Section 11.01. APPLICABILITY

This ordinance is supplemental to existing grading regulations and does not supercede them.

ARTICLE XII. EFFECTIVE DATE

Section 12.01. EFFECTIVE DATE

This ordinance shall become effective on the 30th day after the date of its adoption.

Adopted by the Board of Supervisors of the County of Ventura on April 7, 1981, by the following vote:

AYES: Supervisors Lacey, Jones, Erickson, Flynn, and Dougherty

NOES: None

EXCUSED: None

By James R. Dougherty
Chairman of the Board of Supervisors of the County of Ventura

ROBERT L. HAMM, County Clerk, County of Ventura and ex-officio Clerk of the Board of Supervisors thereof.

By Faye Willard
Deputy Clerk

COUNTY OF VENTURA CALIFORNIA

EXHIBIT 7

Ventura County Ordinance Number 4274

ORDINANCE NO. 4274

AN ORDINANCE OF THE COUNTY OF VENTURA AMENDING THE VENTURA COUNTY BUILDING CODE AND ADOPTING BY REFERENCE THE CURRENT EDITIONS OF CERTAIN MODEL CODES AS FOLLOWS: CALIFORNIA BUILDING CODE, 2001 EDITION; UNIFORM HOUSING CODE, 1997 EDITION; UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS, 1997 EDITION; CALIFORNIA ELECTRIC CODE, 2001 EDITION; CALIFORNIA PLUMBING CODE, 2001 EDITION; THE CALIFORNIA MECHANICAL CODE, 2001 EDITION; AND APPENDIX CHAPTER 1 OF THE CALIFORNIA CONSERVATION CODE, 2001 EDITION, TOGETHER WITH AMENDMENTS THERETO.

The Board of Supervisors of the County of Ventura ordains as follows:

The Ventura County Building Code (VCBC) is hereby amended to read as follows:

ARTICLE 1 - ADOPTION OF THE CALIFORNIA BUILDING STANDARDS CODES AND OTHER MODEL CODES BY REFERENCE

CHAPTER 1 - ADOPTION INTO THE VENTURA COUNTY BUILDING CODE

Section 101 VENTURA COUNTY BUILDING CODE DEFINED.

101.1 ELEMENTS. The Ventura County Building Code contained herein is comprised of the following elements:

a) The specified portions of the California Building Standards Codes known as Title 24, Parts 2, 3, 4, 5, 6, 8 and 10; and

b) The model codes referenced by the California Building Standards Code and the model codes herein adopted by reference being:

1) The Uniform Building Code, 1997 Edition.
2) The National Electrical Code, 1999 Edition.
3) The Uniform Mechanical Code, 2000 Edition.
4) The Uniform Plumbing Code, 2000 Edition.
5) The Uniform Code for Building Conservation, 1997 Edition.
6) The Uniform Housing Code, 1997 Edition.
7) The Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition; and

c) The Ventura County Amendments contained in this ordinance to the above referenced codes.

Taken together, the codes and amendments described above constitute the Ventura County Building Code.

101.2 AMENDMENTS. Ventura County amendments to the California Building Standards Code and the other adopted model codes are found in Articles 3 through 9 of this code.

A ministerial grading permit shall be operative immediately upon issuance. A discretionary grading permit shall become operative on the 15th calendar day after its issuance or, in the case of an appeal, on the date the Board of Supervisors issues its decision upholding or ordering issuance.

SECTION 3306 - PERMITS REQUIRED

3306.1. PERMITS REQUIRED. Except as specified in Section 3306.2 of this section, no person shall do any grading without first having obtained a grading permit from the building official.

3306.2 EXEMPTED WORK. A grading permit is not required for the following:

1. When approved by the building official, grading in an isolated, self-contained area if there is no danger to private or public property.

2. An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit. This shall not exempt any fill made with the material from such excavation or exempt any excavation having an unsupported height greater than 5 feet (1524 mm) after the completion of such structure.

3. Cemetery graves.

4. Refuse disposal sites controlled by other regulations.

5. Excavations for wells or tunnels or utilities.

6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where established and provided for by law, provided such operations do not affect the lateral support or increase the stresses in or pressure upon any adjacent or contiguous property.

7. Exploratory excavations under the direction of soil engineers or engineering geologists. This shall not exempt grading of access roads or pads for exploration equipment.

8. An excavation which (1) is less than 2 feet (610 mm) in depth, or (2) which does not create a cut slope greater than 5 feet (1524 mm) in height and steeper than 1 unit vertical in 1 1/2 units horizontal (66.7% slope).

9. A fill less than 1 foot (305 mm)in depth and placed on natural terrain with a slope flatter than 1 unit vertical in 5 units horizontal (20% slope), or less than 3 feet (914 mm) in depth not intended to support structures, which does not exceed 50 cubic yards (38.3m^3) on any one lot and does not obstruct a drainage course.

10. Grading under an approved hillside erosion control plan in compliance with the hillside erosion control ordinance.

11. When approved by the building official, sand and gravel backfill behind retaining walls.

Exemption from the permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.

EXHIBIT 8

Ventura County Ordinance Number 4308

BOARD OF SUPERVISORS, COUNTY OF VENTURA, STATE OF CALIFORNIA

TUESDAY, JUNE 22, 2004

ORDINANCE NO. 4308/21.3 /Ord. 4155

REPEALING ORDINANCES AND ENACTING NEW PROVISIONS PERTAINING TO SOLID WASTE

An Ordinance of the Ventura County Board of Supervisors repealing ordinances and enacting new provisions to the Ventura County Ordinance Code pertaining to solid waste handling and disposal, waste reduction, and waste diversion programs for unincorporated area is presented to the Board at this time, and upon motion of Supervisors Mikels, seconded by Supervisor Flynn, and duly carried, it is ordered that the same be passed and adopted as an ordinance of the County of Ventura, to be known as Ordinance No. 4308.

Board members vote as follows:

Supervisors Mikels, Flynn, and Parks

Supervisors Bennett and Long

Absent: None

All members of the Board present voting on the passage and adoption of said Ordinance, it is hereby declared and ordered that said Ordinance is hereby passed and adopted as an Ordinance of the County of Ventura, to be known as Ordinance No. 4308.

It is further ordered that said ordinance shall take effect and be enforce at the expiration of thirty (30) days from the date hereof, and before the expiration of fifteen (15) days the same shall be published, with the names of the members of the Board of Supervisors voting for and against the same, at least once in the Santa Paula Times. A newspaper of general circulation printed and published in the County of Ventura, State of California.

AUG 05 2004

BY:

COPIES TO:

CEO (2)
Auditor
Files (2)
Item 34
6/22/04

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ORDINANCE NO. 4308

AN ORDINANCE OF THE VENTURA COUNTY BOARD OF SUPERVISORS REPEALING ORDINANCES AND ENACTING NEW PROVISIONS TO THE VENTURA COUNTY ORDINANCE CODE PERTAINING TO SOLID WASTE HANDLING AND DISPOSAL, WASTE REDUCTION, AND WASTE DIVERSION PROGRAMS FOR UNINCORPORATED AREA

The Board of Supervisors of the County of Ventura ordains as follows:

1. Ventura County Ordinance No. 4155 (Article 3 and Sections 4740, 4741, 4750, 4760, 4770, 4780, 4785 and their subsections of the Ventura County Ordinance Code) is hereby repealed; and
2. Article 3 and Sections 4740, 4741, 4750, 4760, 4770, 4780, 4785, 4786, 4787, 4788, 4789 and their subsections are hereby enacted to be a part of Chapter 7 of Division 4 of the Ventura County Ordinance Code:

ARTICLE 3 - SOLID WASTE PROGRAMS FOR UNINCORPORATED AREAS

Sec. 4740 - **SOLID WASTE PROGRAMS GENERALLY** - This Article provides for the regulation of Solid Waste collection, processing, and disposal in the unincorporated area of the County; for planning and implementation of programs for attainment of waste diversion goals established by the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended; for the establishment of fees for the recovery of program costs; and for other requirements that the County may determine necessary, related to

Solid Waste, Solid Waste Handling and Solid Waste Facilities, that are not encompassed within the regulatory powers of the local enforcement agency under Sections 4700-4730 of this Chapter.

Sec. 4740-1 - **Authorization** - This Article is enacted as authorized by the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended, and specifically to Sections 40057, 40058, 40059, and 41900-41903. This Article is also enacted as authorized by Article 11, Section 7 of the California Constitution that provides for the police powers reserved to the County of Ventura.

Sec. 4740-2 - **Administration** - The County Public Works Agency enforces and administers the provisions of this Article. Where the Director is invested with discretion pursuant to this Article, decisions made in the exercise of such discretion may be appealed in accordance with Section 4789.

Sec. 4740-3 - **Application of Article and Effect on Other Remedies** - This Article shall apply to all unincorporated areas located within the County. This Article shall not limit, preclude, or supersede any other criminal or civil liability or remedy provided in any other law or regulation applicable to Solid Waste, Solid Waste Handling and Solid Waste Facilities nor shall this Article preclude any other person from enforcing laws or regulations affecting Solid Waste to the extent permitted by law.

Sec. 4741 - **DEFINITION OF TERMS** - Unless the context provides otherwise, this Article and its terms shall be construed in accordance with the following definitions and, where terms are not defined in this Article shall be construed in

accordance with the usage and definition of terms provided in the Act and regulations promulgated thereunder.

Sec. 4741-1 - **Accounting Standards** - "Accounting Standards" means the methods and procedures established by the Financial Accounting Standards Board, known generally as Generally Accepted Accounting Principles, and referred to hereinafter as "GAAP."

Sec. 4741-2 - **Act** - "Act" mean the California Integrated Waste Management Act of 1989 (commencing with Section 40000 of the Public Resources Code), as amended.

Sec. 4741-3 - **Agency** - "Agency" means the Public Works Agency of the County.

Sec. 4741-4 - **Board**. "Board" means the Board of Supervisors of the County.

Sec. 4741-5 - **Business of Collection of Solid Waste**. "Business of Collection of Solid Waste" means a business enterprise in any form that obtains or receives Solid Waste for the purpose of removal, hauling, or transportation and includes, without limitation, Solid Waste hauling services. For purposes of this Article, Business of Collection of Solid Waste shall be synonymous with "Solid Waste Hauling Service."

Sec. 4741-6 - **Collector**. "Collector" means any person who engages in the Business of Collection of Solid Waste generated at or from any property, whether commercial or residential, located in the unincorporated area of the County. For purposes hereof, "Collector" shall include the owner or owners of, and the person in the control of, such business. "Contract Collector" shall mean any Collector that has

entered into a contract or franchise with the County to collect Solid Waste and/or Recyclables in any portion of the unincorporated area of the County.

Sec. 4741-7 - **Commercial Customer** - "Commercial Customer" means a Commercial Generator that receives Solid Waste Hauling Services from any Collector with respect to such Solid Waste. Commercial Customer may also mean a Residential Customer, as defined herein, that operates a business enterprise licensed and permitted by the County on the same parcel on which the residential Dwelling Unit is located, and the principal activities of which are physically separate from the residential Dwelling Unit and, at that customer's sole option, Solid Waste and Recyclables generated from the subject Dwelling Unit and the business enterprise are serviced together by a single Collector.

Sec. 4741-8 - **Commercial Generator** - "Commercial Generator" means any Person that generates Solid Waste within the unincorporated area of the County that is not a Residential Generator.

Sec. 4741-9 - **Composting** - "Composting" means the process of controlled biological decomposition of organic Solid Waste.

Sec. 4741-10 - **County** - "County" means the County of Ventura, a political subdivision of the State of California.

Sec. 4741-11 - **Data Information Standards** - "Data Information Standards" means the methods and procedures established for the County data information

system that are required to carry out the County's business functions and to maintain consistency with accounting standards.

Sec. 4741-12 - **Director** - "Director" means the Director of the County Public Works Agency, or such other County official as the Director may designate in writing.

Sec. 4741-13 – **Diversion** – "Diversion" means activities that reduce or eliminate the amount of Solid Waste from Solid Waste disposal and which return these materials to the economic mainstream in the form of raw materials for new, reused, or reconstituted products, which meet the quality standards necessary to be used in the marketplace.

Sec. 4741-14 - **Dwelling Unit** - "Dwelling Unit" means one or more rooms with internal access between all rooms, which provide complete independent living facilities for at least one family, including provisions for living, sleeping, eating, cooking, bathing, and sanitary facilities.

Sec. 4741-15 - **Gardening or Landscaping Services**. "Gardening or Landscaping Services" means the provision of gardening or landscaping services to residences or businesses for which the collection and transport of Solid Waste is limited to trimmings and other landscape-related material generated by and through the provision of these services.

Sec. 4741-16 - **Green Materials** - "Green Materials" means all Solid Waste that constitutes discarded vegetative or organic materials such as, without limitation, grass clippings, leaves, twigs, weeds, brush, bushes, shrub and tree prunings, holiday trees, and garden trimmings. Green Materials do not include food scraps or refuse, and may also exclude certain discarded organic materials that, because of

their size or other properties, are determined by the Director to be uneconomical to recycle.

Sec. 4741-17 - **Hearing Officer** – "Hearing officer" shall mean the person designated by the Director to conduct hearings in accordance with section 4785 et seq. The hearing officer may include any employee of the County other than the investigating officer involved in the particular proceeding or such officer's supervisor.

Sec. 4741-18 - **Inert Waste** - "Inert Waste" means Solid Waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives. For purposes of this Article, Inert Waste does not include any decomposable waste (Title 23, California Code of Regulations, Section 2524), or Solid Waste which is required to be disposed of in a Class 1, 2, or 3 disposal facility unless such material is included incidentally or inadvertently with Inert Waste and constitutes less than five percent (5%) by volume of the Inert Waste. Inert Waste shall include, without limitation, concrete, asphalt, sand, gravel, rock, soil or brick.

Sec. 4741-19 - **Land Clearing Services**. "Land Clearing Services" means the periodic cleanup and removal of inert or organic materials from land parcels for which the collection and transport of Solid Waste is limited to materials cleared and removed from these job sites. For purposes of this Article, land clearing services shall not include the collection and transport of Solid Waste from construction sites, the demolition of existing structures, or cleanup of litter or dump sites.

Sec. 4741-20 - **Liquid Waste** - "Liquid Waste" means any waste materials that are not spadeable.

Sec. 4741-21 - **Multi-Family Dwelling** - "Multi-Family Dwelling" means a building, or portion of a building, containing two or more Dwelling Units.

Sec. 4741-22 - **Operator** - "Operator" means any person that is a Collector or any person that establishes or operates a Solid Waste Facility.

Sec. 4741-23 - **Person** - "Person" means any individual, group of individuals, firm, sole proprietorship, partnership, corporation, committee, association, public agency or entity, or any other organization or group, public or private.

Sec. 4741-24 - **Records** - "Records" means accounting and such other records as deemed necessary by the County for the evaluation of service rates, operator service delivery, program performance, and verification of revenues and fees.

Sec. 4741-25 - **Recyclables or Recycled Materials** - "Recyclables" or "Recycled Materials" means all Solid Waste that is identified for Diversion in accordance with programs determined by the Director or the Board.

Sec. 4741-26 - **Regular Collection Service** - "Regular Collection Service" means Solid Waste Hauling Services provided by a Collector to Residential and/or Commercial Customers for Solid Waste and Recyclables collection on a scheduled basis, for which the Collector has provided containers and has established a regular monthly or bi-monthly billing cycle.

Sec. 4741-27 - **Residential Customer** - "Residential Customer" means a Residential Generator that receives Solid Waste Hauling Services from any Collector with respect to such Solid Waste.

Sec. 4741-28 - **Residential Generator** - "Residential Generator" means any person that generates Solid Waste from any Single-Family Dwelling or Multi-Family Dwelling, and from onsite domestic uses accessory to these dwellings, in the unincorporated area of the County.

Sec. 4741-29 - **Revenues** - "Revenues" means actual or expected cash inflows from the Business of Collection of Solid Waste in the unincorporated area of the County, including all forms of consideration such as, but not limited to, monthly service charges, one-time service charges, special handling charges, or any other revenue arising from the use, operation, or delivery of Solid Waste Hauling Services. This definition of Revenues shall be applicable to the calculation of fees only, and for all other purposes revenues shall be defined in accordance with GAAP.

Sec. 4741-30 - **Single-Family Dwelling** - "Single-Family Dwelling" means a building or a mobile home that contains one principal Dwelling Unit.

Sec. 4741-31 - **Solid Waste** - "Solid Waste" means those discarded wastes defined as such in the Act, whether or not these wastes are or may be designated for Diversion. For purposes of this definition, the term "discarded" shall have the meaning used for that term in the Act as provided by the Legislature and interpreted by the courts of California.

Sec. 4741-32 - **Solid Waste Facility** - "Solid Waste Facility" means any facility for which a Solid Waste Facility permit is required by the Act or by any regulation promulgated thereunder by the State of California. For purposes of this Article, Solid

Waste Facility shall also mean any facility which engages in the commercial Composting, chipping, grinding or other processing of yard debris and Green Materials and the sale of products derived from these operations, whether or not any permit is required by the State of California, provided, however, unless a Solid Waste Facility permit is required by the Act, "Solid Waste Facility" shall not include publicly owned sewage treatment plants or any facility for which the processing of yard debris and Green Materials is undertaken principally for on-site horticultural or agricultural use.

Sec. 4741-33 - **Solid Waste Handling** - "Solid Waste Handling" means the collection, transportation, storage, transfer, or processing of Solid Waste.

Sec. 4741-34 - **Temporary Collection Service** - "Temporary Collection Service" means Solid Waste Hauling Services provided by a Collector to Commercial Customers on a one-time or limited term basis, for which the Collector has temporarily placed containers, or has otherwise provided for the removal of Solid Waste and Recyclables from a job or work site. Provision of Temporary Collection Service to a Commercial Customer shall be for a maximum of thirty (30) consecutive days, and not more than sixty (60) days in any calendar year.

Sec. 4750 - **FRANCHISE OR CONTRACT FOR OPERATION OF BUSINESS OF COLLECTION OF SOLID WASTE** - The purpose of this section and its subsections is to regulate matters of collection of Solid Waste in the unincorporated area of the County including, without limitation, frequency of collection, means of collection and transportation, level of services, charges and fees, and the nature, location and extent of providing Solid Waste Hauling Services; to facilitate the implementation of waste reduction and Diversion programs; and to establish fees

which shall be used to pay costs associated with regulating the collection of Solid Waste and of implementing Diversion programs in the unincorporated area.

Sec. 4750-1 - **Solid Waste Collection Franchise or Contract Required** - Except as set forth in Section 4750-8 herein, no Person shall establish, operate or carry on the Business of Collection of Solid Waste in the unincorporated area of the County without either, at the County's sole option, a franchise or contract with the County. Said franchise or contract shall be established pursuant to Section 40059 of the Public Resources Code, either with or without competitive bidding, and may be an exclusive, partially exclusive or nonexclusive contract or franchise, at the County's option. The type of Solid Waste collection franchise or contract required shall be determined by the type of service provided, as follows:

Sec. 4750-1.1 - Regular Service Collection Contract or Franchise – Persons providing Regular Collection Service, as defined herein, shall be required to obtain a Regular Service Collection Contract or Franchise with the County, and shall provide the full range of Solid Waste Hauling Services to Residential and/or Commercial Customers, including the collection of Solid Waste and the collection of Recyclables, pursuant to Section 4770. Persons holding a valid Regular Service Collection Contract or Franchise may also provide Temporary Collection Service, as defined herein.

Sec. 4750-1.2 - Temporary Service Collection Contract or Franchise – Persons providing Temporary Collection Service only, as defined herein, shall be required to obtain a Temporary Service Collection Contract or Franchise with the County, and shall be subject to the Diversion requirements of Section 4770-2.1 and Section 4770-2.3. Persons holding a Temporary Service Collection Contract or Franchise are limited to Temporary Collection Service, and are not authorized to provide Regular Collection Service, as defined herein.

Sec. 4750-2 - **Contract or Franchise Provisions** - Each Regular Collection Service and Temporary Collection Service Franchise or Contract may include, but shall not be limited to, provisions that govern the following: term, service area boundaries, service type, service levels, service rates, days and hours of collection, routes and schedules, collection equipment, destination facilities, Diversion requirements, environmental campaigns and programs, customer service, accounting and reporting requirements, compliance with laws, County regulatory fees and charges, financial assurance, performance surety, default and remedies, and assignment.

Sec. 4750-3 - **Approval of Collector Contract Applications and Assignments** - The granting of Regular Collection Service and Temporary Collection Service Franchises or Contracts by the County, and of any assignments of such franchises or contracts, shall be at the sole discretion of the Board, and shall be based upon an assessment of the applicant's or assignee's qualifications including, without limitation, organizational and fiscal administration, Solid Waste management

experience, environmental practices, compliance with laws, and service performance record.

Sec. 4750-4 – **Solid Waste Collection Contract or Franchise Sunset Date** – It is the intent of the County to reevaluate and to potentially change its regulatory system and service area boundaries for solid waste collection in the unincorporated area, effective March 1, 2014. Therefore, no new contract or franchise term shall be approved nor permitted to extend beyond this date. As required, uniform expiration dates for all franchises or contracts shall be accomplished through renegotiation of existing agreements or, where appropriate, through exercise of the County's option to issue notices of nonrenewal.

Sec. 4750-5 - **Limitation on the Number of Regular Service Contract Collectors for Commercial Generators -** Effective January 1, 2005, and continuing thereafter, no new Regular Collection Service Contracts or Franchises to operate or carry on the Business of Collection of Solid Waste from Commercial Generators in the unincorporated area of the County shall be established unless the Board, by resolution, first makes a determination, in its sole discretion, that there is a need for additional service. When making this determination, the Board may consider all factors relevant to maintenance of the public health, safety, and welfare including, without limitation, the nature and geographical distribution of existing services, the competitiveness of existing service rates, the success of County waste Diversion programs implemented by existing Contract Collectors for compliance with State mandates, the potential for adverse environmental or other impacts which the granting of additional collection contracts or franchises might create, the interests of affected Commercial Generators and existing Contract Collectors, and whether a

public demand exists for additional commercial collection services which are not then being adequately supplied or capable of being supplied by existing Contract Collectors. If, at any time, the Board determines that there is a need for additional contracts or franchises for the collection of Solid Waste from Commercial Generators in the unincorporated area of the County, the Board may approve such contracts or franchises.

Sec. 4750-6 – **Parking of Collection Vehicles and Trailers** – The parking of vehicles and trailers used in the Business of Collection of Solid Waste in, on or about the public streets or highways of the unincorporated area is prohibited. Each Contract Collector and/or any Person who otherwise is a Collector of Solid Waste generated by Residential and/or Commercial Customers located in the unincorporated area of the County of Ventura shall be required to maintain a permitted site for such vehicles and trailers, in compliance with the Ventura County Zoning Ordinance. Further, each Collector shall not otherwise be in violation of sections of the Ventura County Ordinance Code related to the parking of commercial and oversize vehicles.

Sec. 4750-7 - **Collector Fee** - Each Contract Collector and any Person who otherwise is a Collector of Solid Waste generated by Residential and/or Commercial Customers located in the unincorporated area of the County shall pay a Collector Fee based on the Revenues from its Business of the Collection of Solid Waste in the unincorporated area. Payment shall be made in accordance with Section 4780-5 of this Article and the schedule of fees adopted by resolution of the Board. This fee shall be in addition to any other fees paid or to be paid by the Collector.

Sec. 4750-8- **Exclusions from the Requirements of Sections 4750-1 and 4750-7** - A Person shall not be required to have a contract or franchise with the County pursuant to Section 4750-1 or to pay a Collector Fee pursuant to Section 4750-7 with respect to, but only to the extent of, the following activities:

a) Inert or Liquid Waste -The collection of inert waste or liquid waste where such wastes are legally taken to any location other than a permitted Solid Waste Facility; or

b) Onsite Waste Facilities -The collection of Solid Waste which is legally taken to any onsite Solid Waste Facility within the same parcel of land or within the same land use authorization boundary where the Solid Waste was generated (e.g. conditional use permit); or

c) Special Districts -The collection of Solid Waste where such collection is statutorily regulated by the governing body of a Special District for areas within that District's boundaries if the County determines that said District's regulations meet the purposes and intent of the Act insofar as such performance within said District boundaries is concerned; or

d) Gardening or Landscaping Services -The provision of Gardening or Landscaping Services, as defined herein; or

e) Land Clearing Services -The provision of Land Clearing Services, as defined herein.

Sec. 4750-8 - **Enforcement of Exclusive Contracts or Franchises** - Any Contract Collector who has entered into an exclusive contract or franchise with the County in accordance with Section 4750-1 may at any time bring an action in the superior court for injunctive relief and damages against any Person engaging in the Business of Collection of Solid Waste who by virtue of such business is infringing upon the exclusive service area granted by the said contract or franchise to the said Contract Collector and who, in violation of Section 4750-1, has no contract or franchise with the County authorizing such activity. Prior to bringing such action, the Contract Collector shall notify the Director of its intention to file an action. In its discretion, the County may join in such action as a plaintiff, may bring an independent action to enforce Section 4750-1 or any pertinent contract or franchise or may take no action. Any action filed by the Contract Collector shall be pursued solely at the Contract Collector's expense, and the Contract Collector shall include in its claim any costs incurred by the County as a result of this action if assigned by the County, and shall reimburse the County for such costs if collected in the action.

Sec. 4760 - **FRANCHISE OR CONTRACT FOR OPERATION OF SOLID WASTE FACILITIES** - The purpose of this section and subsections is to regulate matters of solid waste processing and disposal in the unincorporated area of the County including, without limitation, the nature, location, and extent of providing Solid Waste Facility services; the level of services, charges and fees; the establishment of financial assurance and indemnification; and the implementation of waste processing and Diversion programs.

Sec. 4760-1 - **Solid Waste Facility Franchise or Contract Required** - No Person shall establish or operate a Solid Waste Facility in the unincorporated area of the County unless, at the County's sole option, either (1) a non-exclusive or exclusive franchise has been granted by the Board to such Person in accordance with the provisions of applicable law or (2) the Board has entered into a contract with such Person to establish or operate a Solid Waste Facility.

Sec. 4760-2 - **Solid Waste Facility Franchise or Contract Provisions** - Each Solid Waste Facility Franchise or Contract may include, but shall not be limited to, provisions that govern the following activities: facility administration and record-keeping, tonnage tracking and reporting, rate regulation, waste diversion programs, County regulatory fees and charges, environmental and permit compliance, financial assurance, performance surety, default and remedies, and assignment.

Sec. 4770 - **WASTE DIVERSION REQUIREMENTS** -The purpose of this section and its subsections is to provide for the implementation of residential and commercial Diversion programs by Contract Collectors that will assist in achieving the Diversion goals established in the Act.

Sec. 4770-1 - **Residential Customer Diversion Requirements**

Sec. 4770-1.1 - Director's List of Residential Recyclables - The Director shall develop, maintain, and publish, in consultation with Contract Collectors and other Diversion industry representatives, a list of Recyclables generated by Residential Customers ("Director's List of Residential Recyclables") that shall be subject to the requirements of Section 4770-1.2. In determining what types of Solid Waste shall be included on the Director's List of Residential Recyclables, the Director shall

periodically consider and evaluate processing capability and capacity, market availability, and economic feasibility. Except as provided in Section 4770-1.4 below, each contract Collector providing services to Residential Customers shall provide for collection of all materials on the Director's List of Residential Recyclables. Nothing in this section is intended to limit or preclude the separate collection and Diversion of materials other than and in addition to those on the Director's List of Residential Recyclables.

Sec. 4770-1.2 - Supply and Use of Separate Containers for Residential Recyclables - Each Collector shall supply to each of its Residential Customers and each Residential Customer shall accept, except to the extent such Residential Customer is determined to be exempt pursuant to Section 4770-1.4, a collection container designated for the separate deposit of Green Materials by the Residential Customer and a collection container designated for the separate deposit of commingled Recyclables by the Residential Customer. The Collector's supply of such containers shall be in addition to other containers supplied by the collector for Solid Waste generally. Where it would be more feasible, the Collector may, upon the written approval of the Director, supply containers for use in common by several Residential Customers provided such Residential Customers have access to each type of container required by this section. As a part of its Regular Collection Service, each Collector shall collect Green Materials and commingled Recyclables from such containers, if any, deposited therein by the Residential Customer. The Collector shall keep these materials separate from non-Recyclable Solid Waste, take measures to minimize contamination, and shall handle these materials in a manner which ensures that they are recycled or otherwise diverted from disposal.

Sec. 4770-1.3 - Pricing Incentives for Residential Waste Diversion - Each Collector providing services to Residential Customers shall offer multiple levels of service and pricing incentives which encourage the separation of Recyclables from refuse, and which discourage disposal. These levels of service and associated pricing, which may include variable container rates, shall be designated and approved in advance by the Director. The Director may exempt a Contract Collector from some or all of the requirements of this section if the Director determines that offering multiple levels of service is not economically feasible.

Sec. 4770-1.4 - Exemption from Section 4770-1.2 - The Director may exempt a Contract Collector from some or all of the requirements of Section 4770-1.2 if the Director determines that supplying separate containers for commingled Recyclables is not economically feasible, or if the materials designated on the Director's List of Residential Recyclables can be otherwise separated and effectively diverted from disposal. In addition, there shall be an exemption available for Green Materials containers as provided in this section. If such exemption is granted in accordance with this section, the Collector shall not be required to supply a separate Green Materials container to the exempt Residential Customer and the exempt Residential Customer shall not be charged the additional fee applicable to that container that would otherwise be allowed. Any Residential Customer may apply for an exemption with respect to the Green Materials container by submitting an application for such exemption to the Director. A form for application of the exemption shall be prepared by the Director and supplied to anyone requesting such application. The Director may require that such application be signed under penalty of perjury by the person

applying for the exemption. Based upon such application and, if requested by the Director, an inspection of the premises affected, the Director may exempt such Residential Customer if the Director finds that either of the following is true: (a) that the Residential Customer does not generate any significant Green Materials; or (b) that the Residential Customer is Composting or causing to be composted, or is otherwise ensuring that other Persons compost or divert, whatever Green Materials are generated by the Residential customer. If the applicant refuses to allow an inspection, the Director may deny the application. As a further condition of granting such exemption, the Director may require that the Residential Customer consent to continuing inspection of the affected premises at any reasonable time; that the Residential Customer remain in compliance with the requirements of the exemption as provided in this section; and that the Residential Customer comply with all state and local laws and regulations governing Composting. The Director may revoke any exemption that has been granted at any time the Director determines that the Residential Customer is no longer qualified for the exemption or is not complying with the terms and conditions of the exemption. Any exemption issued by the Director, and any denial or revocation of the same, shall be in writing. The Director shall mail or deliver a copy of any exemption, or denial or revocation, to the Residential Customer and to the Contract Collector from whom such Residential Customer obtains services.

Sec. 4770-2 - <u>Commercial Customer Waste Diversion Requirements</u>

Sec. 4770-2.1 - <u>Director's List of Commercial Recyclables</u> - The Director may develop, maintain, and publish, in consultation with Contract Collectors and

other Diversion industry representatives, a list of Recyclables generated by Commercial Customers ("Director's List of Commercial Recyclables") that shall be subject to the requirements of Section 4770-2.2. In determining what types of Solid Waste shall be included on the Director's List of Commercial Recyclables, the Director shall consider and evaluate processing capability and capacity, market availability, and economic feasibility. Except as provided in Sec. 4770-2.5 below, each Contract Collector providing services to Commercial Customers shall separate or cause to be separated from refuse and shall arrange for Diversion all materials on the Director's List of Commercial Recyclables. Compliance with the Diversion requirements of this section is mandatory for Contract Collectors providing Regular Collection Service and Temporary Collection Service. Nothing in this section is intended to limit or preclude the separate collection and Diversion of materials other than and in addition to those on the Director's List of Commercial Recyclables.

Sec. 4770-2.2 - **Regular Collection Service: Supply and Use of Separate Recyclables Containers for Commercial Customers** - Each Contract Collector providing Regular Collection Service shall supply to each of its Commercial Customers and each Commercial Customer shall accept, unless such Commercial Customer is determined to be exempt pursuant to Section 4770-2.5, one or more collection containers, as appropriate, designated for the separate deposit of materials on the Director's List of Commercial Recyclables by the Commercial Customer. The Collector's supply of such containers shall be in addition to other containers supplied by the Collector for Solid Waste generally. Where it would be more feasible, the Collector may, upon the written approval of the Director, supply containers for use in common by several Commercial Customers provided such Commercial Customers

have access to the type and number of containers sufficient to fulfill the requirements of this section. As a part of its Regular Collection Service, each Collector shall collect Green Materials and other Recyclables on the Director's List established pursuant to Section 4770-2.1, if any, deposited therein by the Commercial Customer. The Collector shall keep these materials separate from non-Recyclable Solid Waste, take measures to minimize contamination, and shall handle these materials in a manner which ensures that they are recycled or otherwise diverted from disposal.

Sec. 4770-2.3 - **Temporary Collection Service: Collector Separation of Recyclables Generated by Commercial Customers** - Each Collector providing Temporary Collection Service shall separate or cause to be separated from refuse all materials on the Director's List of Commercial Recyclables as follows:

Sec. 4770-2.3.1 - Containerized Temporary Service - Each Collector providing Temporary Collection Service involving containers shall supply to each of its Commercial Customers and each Commercial Customer shall accept, unless determined to be exempt pursuant to Section 4770-2.5, one or more collection containers designated for the separate deposit of materials on the Director's List of Commercial Recyclables. The Collector's supply of such containers delivered to a Commercial Customer job site shall be in addition to other containers delivered by the Collector for Solid Waste generally. As a part of its Temporary Collection Service, each Collector shall collect Recyclables, if any, deposited therein and keep these materials separate from non-Recyclable Solid Waste. Where it would be more feasible, a Collector may supply a single container to its Commercial Customer for commingled materials, provided that, upon collection and removal, the Collector

delivers such containers to a permitted material recovery facility for the separation of Recyclables. Whether placed in separated or commingled containers, the Collector shall take measures to minimize contamination, and shall handle these materials in a manner which ensures that they are recycled or otherwise diverted from disposal.

Sec. 4770-2.3.2- Non-Containerized Temporary Service - Each Collector providing Temporary Collection Service through the direct loading of Solid Waste into motorized vehicles or trailers shall accomplish the separation of Recyclable materials from refuse prior to collection and removal, or alternatively shall deliver commingled loads to a permitted materials recovery facility for the separation of Recyclables. Whether separated at the job site or delivered to a materials recovery facility, the Collector shall take measures to minimize contamination, and shall handle these materials in a manner that ensures that they are recycled or otherwise diverted from disposal.

Sec. 4770-2.4 - **Pricing Incentives for Commercial Waste Diversion** - Each Collector providing services to Commercial Customers shall offer multiple levels of service and pricing incentives which encourage the separation of Recyclables from refuse, and which discourage disposal. These levels of service and associated pricing shall be designated and approved in advance by the Director, and may include, without limitation: (a) variable container rates for refuse, small bin or barrel service for Commercial Recyclables collection, and rates for Recycling which are set below rates charged for refuse containers of comparable size; and (b) surcharges for containers that contain mixed or contaminated loads that require separation of Recyclables at a permitted materials recovery facility. The Director may exempt a

Contract Collector from some or all of the requirements of this section if the Director determines that offering multiple levels of service is not economically feasible.

Sec. 4770-2.5 –**Exemption from Sections 4770-2.2 and 4770-2.3** - The Director may exempt a Contract Collector from some or all of the requirements of Section 4770-2.2 and/or Section 4770-2.3 if the Director determines that one of the following is true: (a) that supplying separate containers for commingled Recyclables is not economically feasible; (b) that the materials designated on the Director's List of Commercial Recyclables will be otherwise separated and effectively diverted by the Contract Collector or Commercial Customer from disposal, or (c) that the Commercial Customer does not generate significant amounts of Recyclables. If such exemption is granted in accordance with this section, the Collector shall not be required to supply a separate Recycled Materials container to the exempt Commercial Customer and the exempt Commercial Customer shall not be charged the additional fee applicable to that container that would otherwise be allowed. Any Commercial Customer may apply for an exemption with respect to the Recycled Materials container by submitting an application for such exemption to the Director. A form for application of the exemption shall be prepared by the Director and supplied to anyone requesting such application. The Director may require that such application be signed under penalty of perjury by the person applying for the exemption. Based upon such application and, if requested by the Director, an inspection of the premises affected, the Director may exempt such Commercial Customer if the Director finds that either of the following is true: (a) that the Commercial Customer does not generate any significant Recyclable Materials; or (b) that the Commercial Customer is diverting or causing to

be diverted, through back-hauling, self-hauling, or other means, whatever Recyclable Materials are generated by the Commercial Customer. If the applicant refuses to allow an inspection, the Director may deny the application. As a further condition of granting such exemption, the Director may require that the Commercial Customer consent to continuing inspection of the affected premises at any reasonable time; that the Commercial Customer remain in compliance with the requirements of the exemption as provided in this section; and that the Commercial Customer comply with all state and local laws and regulations governing Diversion. The Director may revoke any exemption that has been granted at any time the Director determines that the Commercial Customer is no longer qualified for the exemption or is not complying with the terms and conditions of the exemption. Any exemption issued by the Director, and any denial or revocation of the same, shall be in writing. The Director shall mail or deliver a copy of any exemption, or denial or revocation, to the Commercial Customer and to the Contract Collector from whom such Commercial Customer obtains services.

Sec. 4770-3 – **Waste Management Fee** – Each Contract Collector and any Person who otherwise is a Collector of Solid Waste generated by Residential and/or Commercial Customers located in the unincorporated area of the County shall pay a Waste Management Fee based on the revenues from its Business of the Collection of Solid Waste in the unincorporated area. Payment shall be made in accordance with Section 4780-5 of this Article and the schedule of fees adopted by resolution of the Board. This fee shall be used to pay costs associated with preparing, adopting, implementing, and administering the County Source Reduction and Recycling

Element, Household Hazardous Waste Element, Nondisposal Facility Element, and such other plans and programs as may be required by the Act or by Board integrated waste management, bioenergy, and pollution prevention policies for the unincorporated area of the County. This fee shall be in addition to any other fees paid or to be paid by the Collector.

Sec. 4780 -**FINANCIAL AND INFORMATION MANAGEMENT**

Sec. 4780-1 - **Accounting Information Generally** - Financial information submitted by Operators to the County shall be prepared and maintained in accordance with GAAP.

Sec. 4780-2 - **Accounting Accrual Method** - Operators may utilize any of the four following accounting methods for recognizing economic performance and earnings, provided that such method is consistent with the standards set forth in GAAP and with the operator's internal audits or federal income tax returns, and with the statement of Revenues pursuant to Section 4780-5: (1) specific performance, (2) proportional performance, (3) completed performance, or (4) collection.

Sec. 4780-3 - **Data Information Generally** - Data information relevant to the Business of Collection of Solid Waste and the operation of Solid Waste Facilities submitted to the County by Operators shall be prepared and maintained in accordance with published County Data Information Standards provided by the Director.

Sec. 4780-4 - **Records** - Operators shall maintain Records for at least five (5) years following the period to which they pertain. Upon seven (7) days written notice,

the County shall have the right to inspect the required Records at any time during official business hours.

Sec. 4780-5 - **Fee Payment and Statement of Revenues** - Fees required by Sections 4750-7 and 4770-3 shall be paid quarterly by each Collector within 30 days of the close of each calendar quarter, i.e. prior to April 30, July 30, October 30, and January 30 of each calendar year. Accompanying payment of such fees, the Collector shall file with the Director a separate statement for each contract service area, verified by the Collector's oath or the oath of the manager or other responsible officer of the Collector, showing total Revenues from its Business of the Collection of Solid Waste originating within the contract service area during the preceding quarter. Such statement shall contain, in a format approved by the Director, supporting documentation of Revenues received during the preceding quarter by jurisdictional allocation of tonnage collected and disposed, waste category or type, generator type, number of customers, and such other factors as may be determined by the Director as necessary for program administration. Simultaneously with the filing of the statement, the Collector shall submit to the Director all fees required by this Article and by resolution of the Board which are based upon a percentage of such Revenues for the preceding quarter. Fees shall be calculated based upon the Revenues from the Collector's Business of the Collection of Solid Waste in each contract service area located in the unincorporated area. Acceptance of any payment from a Collector shall not be construed as a release or as an accord and satisfaction of any claim the County may have for further or additional sums payable under this ordinance or for the performance of any other obligation under this Article.

Sec. 4780-6 - **Audit** -The County shall have the right to audit the Records required herein and the cost of the audit shall be borne by the Operator when inaccuracies in the Records result in a material difference in the disclosure of the Operator's economic position as it relates to, without limitation, the following: customer charges, fee assessments and payments, County specific service delivery costs, and program performance. For purposes of this Article, material difference shall mean a difference of ten percent (10%) or more.

Sec. 4780-7 - **Penalties** - Fees required pursuant to Sections 4750-7 and 4770-3, received after the due dates specified in Section 4780-5 shall include a late charge penalty on the amount due calculated at an annual rate of 12 percent, which shall accrue until paid in full. For the purposes of this section, the post mark date shall be considered as the date of payment when properly endorsed by the United States Postal Service.

Sec. 4780-8 - **Disclosure of Customer Names and Addresses** - (a) If the County receives for its use the names or addresses of customers of a Contract Collector and such information constitutes a trade secret or is the confidential or proprietary information of such Contract Collector, upon request by the said Contract Collector, the County shall not disclose such information to the public or to any other Contract Collector without a court order compelling such disclosure.

(b) If any Contract Collector directly or indirectly obtains from the County or any of its personnel or agents any trade secret or confidential or proprietary information referred to in subsection (a) hereof which such information pertains to another Contract Collector, the Contract Collector that improperly obtained such

information shall be liable for any damage caused thereby and shall indemnify the County with respect to any claims made arising therefrom.

(c) If any Person proposing to become a Contract Collector directly or indirectly obtains from the County or any of its personnel or agents any trade secret or confidential or proprietary information referred to in subsection (a) hereof which such information pertains to a Contract Collector, such Person shall be barred from becoming a Contract Collector for a period of three years following receipt of such information.

(d) If, pursuant to the California Public Records Act, commencing with Section 6250 of the Government Code or pursuant to a subpoena, any Person requests from the County the opportunity to examine documents or to receive copies of documents that contain information that is protected from disclosure under subsection (a) hereof, the County shall notify all affected Contract Collectors. In the case where a subpoena has been served and where the Person requesting the documents refuses to withdraw the subpoena or to enter into some form of protective order acceptable to the affected Contract Collector, the affected Contract Collector shall file, at the Contract Collector's expense, an application with the court for a protective order or an order to quash such subpoena if the Contract Collector seeks to protect such information. The County shall not oppose such application. In the case where a request is made under the Public Records Act and where the Person making the request refuses to withdraw the request or to agree upon terms of disclosure that are acceptable to the affected Contract Collector, the County shall deny access to such documents on the ground that such information is exempt therefrom unless directed

otherwise by the affected Contract Collector. In the event the Person requesting access to such documents files an action or motion with the court to obtain access, the affected Contract Collector shall, at the Contract Collector's expense, appear in the action or motion to oppose such access if the Contract Collector seeks to protect such information. Upon demand by the County, the affected Contract Collector, at the Collector's expense, shall also defend the County and shall indemnify the County with respect to any award of attorney's fees. In the case of a subpoena or request under the Public Records Act, the County shall comply with whatever order is issued by the court pertaining thereto.

Sec. 4785- **CIVIL ADMINISTRATION AND ENFORCEMENT** - The Agency and its Director are hereby authorized to administer and enforce Article 3 and Article 4 of Chapter 7 of Division 4 (commencing with Section 4740 of the Ventura County Ordinance Code), as amended.

Sec. 4786- **CRIMINAL SANCTIONS** - Any Person who violates any Section of Article 3, or any provision thereof is guilty of a misdemeanor/infraction as specified in Section 13-1 of the Ventura County Ordinance Code, and upon conviction thereof shall be punishable in accordance with Section 13-2 of the Ventura County Ordinance Code. Each such Person shall be guilty of a separate offense for each and every day during any portion of which any violation of Article 3 is committed, continued, or permitted by such Person and shall be punishable thereof as provided in Section 13-2 of the Ventura County Ordinance Code.

Sec. 4787- **NOTICE OF VIOLATION** - In addition to any other remedies, the Agency may issue a notice of violation to any Person who is violating any provision of

this Article. A notice of violation shall identify the Person, if known, committing the wrongful actions or failure to act; describe the time, place and nature of the pertinent activities; state the ordinance, applicable law or order that has been violated; and, identify the owner and, if known, the Person in possession of the property, if any, where the violation is occurring or has occurred. The Agency may issue a notice of violation by service of the notice on the Persons identified in the notice. A notice of violation may contain a specified time for corrective action. If corrective action is not taken within the specified time then the Director may provide for whatever remedy the Director deems appropriate. Any contest of a notice of violation may be heard in accordance with the hearing procedures in Section 4788 et seq.

Sec. 4788 - **HEARING OFFICER AUTHORITY AND HEARING PROCEDURE** - Any hearing conducted before the Hearing Officer pursuant to this Article shall be conducted in accordance with this Section and its Subsections.

Sec. 4788-1 – **Scope of Hearing Officer Authority** - The Hearing Officer shall have the authority to hear and determine any appeal of a notice of violation. The hearing officer may provide whatever remedy the Hearing Officer deems appropriate, including without limitation to affirm actions of the Agency or the Director, modify such actions or reverse such actions.

Sec. 4788-2 – **Petition For Hearing** - Any Person who is entitled to a hearing under this Article and who seeks to appeal shall request a hearing by service of a petition for hearing on the Agency within the time required by the pertinent section of this Article. The Agency shall prepare a form for such petition and shall make such form available to anyone on request. The petition shall state the name and address of petitioner and shall further state the name and address of any other Person whose

rights will be or may be affected by the proceedings, including without limitation the owner and operator of any Solid Waste Facility, Collector, Solid Waste chipping and grinding operation or property affected thereby. The petition shall briefly state the material facts at issue the remedy sought and shall have attached any notice of noncompliance, abatement order, remedial cost claim or any other notification by the Agency that is at issue.

Sec. 4788-3 - **Notice of Hearing** - After a timely petition for hearing is served, the Agency shall serve notice of the hearing which shall be scheduled to commence no later than 120 days after service of the petition for hearing on the Agency. The notice of hearing shall state: (a) the nature of the proceeding; (b) the date, time and place of the hearing; and, (c) the name of the hearing officer.

Sec. 4788-4 - **Service of Notice of Hearing** - The Agency shall serve notice of the hearing, a copy of the petition for hearing, and a copy of this Section on all persons named in the petition that are affected thereby, on any Person that requests such notice, and on any other Person whose rights the Agency believes may be affected thereby, including without limitation any Person who is owner of record of any facility or property affected by the proceedings. The Agency shall complete such service of notice upon all such Persons no later than thirty (30) days prior to the date scheduled for commencement of the hearing. The Agency shall also cause the notice of the hearing to be published in a newspaper of general circulation at least one time not less than twenty (20) days before commencement of the hearing. The published notice shall state that copies of the petition for hearing and this Section are available for public review at the Agency. Attendance at the hearing by any Person shall constitute a waiver of any defective notice with respect to such Person. Failure

of any person who was properly served with notice to appear at the hearing shall constitute a waiver of such Person's right to be heard.

Sec. 4788-5 - **Hearing Generally** - The hearing shall be public and shall be held before the Hearing Officer at the date, time and place stated in the notice of hearing or at such other date, time and place as may be ordered by the Hearing Officer at the time of the hearing. The Hearing Officer may continue any hearing as may be reasonably necessary for the convenience of the Hearing Officer, witnesses, the Agency or any other Person entitled to receive notice of the hearing. Any new time and place for the hearing shall be publicly announced at the time and place of the noticed hearing. No further notice need be published or served upon anyone as to such continuances. Any Person affected by the proceedings may be heard and be represented by counsel. The Hearing Officer may consolidate several petitions for a hearing into one hearing if the petitions relate to the same factual issues, the same Collector, the same Solid Waste Facility, the same Solid Waste chipping and grinding operation or the same property.

Sec. 4788-6 - **Evidence** - The Hearing Officer shall require that all live testimony at the hearing be taken under oath if requested by the Agency or any affected Person. The Hearing Officer shall have the power to administer oaths or affirmations and to certify official acts. The Hearing Officer may permit testimony by affidavit or declaration if the Person providing such testimony is made available by subpoena or otherwise for cross examination where requested by any affected Person. The Hearing Officer may allow any testimony to be given in informal narrative style. The Agency and any affected Person shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses on any

relevant issue, even though such matter was not covered on direct examination, and to impeach any witness, regardless of whether that Person first called the witness to testify. Any relevant evidence shall be admissible if it is the sort of evidence upon 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 would make improper the admission of such evidence in a civil action. Hearsay evidence, including without limitation any report by the Agency, shall be admissible for any purpose but shall not be sufficient itself to support a finding on a material issue if there is conflicting evidence unless, in light of that evidence, the Hearing Officer determines that the hearsay evidence is trustworthy. Either before or after submission of the case for decision, the Hearing Officer may take official notice of any generally accepted technical or scientific matter and of any fact which may be judicially noticed by the courts of this state. The Agency and any affected Person at the hearing shall be informed of any matters to be officially noticed. Upon request, the Agency and any affected Person at the hearing shall be given reasonable opportunity on request to refute any officially noticed matters.

Sec. 4788-7 - **Subpoena Power** - At the request of the Agency or any affected Person, the Hearing Officer shall issue subpoenas and subpoenas duces tecum for attendance of witnesses and production of documents at the hearing. Compliance with the provisions of section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of a subpoena duces tecum. Either before or after the hearing has commenced, the Hearing Officer may also issue subpoenas and subpoenas duces tecum as the Hearing Officer deems appropriate.

Sec. 4788-8 - **Contempt** - If any Person disobeys or refuses to respond to a subpoena or subpoena duces tecum, or refuses to take the oath or affirmation of a witness, or thereafter refuses to be examined, or is guilty of misconduct during the hearing, the Hearing Officer may certify the facts to the superior court for a contempt proceeding. The court shall thereupon issue an order directing the Person to appear before the court and show cause why he should not be punished for contempt. The order and a copy of the certified statement shall be personally served on the Person against whom contempt has been charged. The same proceeding shall be held, the same penalties may be imposed and the Person charged may purge himself of the contempt in the same way as in the case of a Person who has committed contempt in a trial of a civil action before the superior court.

Sec. 4788-9 - **Record** - The Agency shall record the hearing either on a recording device or by use of a certified court reporter and shall make the recording or transcript available to any Person upon request. The Agency shall provide a certified copy of the transcript or recording, or a transcript prepared therefrom, to any Person who requests it and who pays to the Agency the cost of making and certifying copy and, in addition, the cost of preparing and certifying the transcript, if the transcript has not already been prepared.

Sec. 4788-10 - **Ruling** - At the conclusion of the hearing or within a reasonable time thereafter, the Hearing Officer shall issue a written ruling on the factual and legal issues presented. The ruling shall be supported by the weight of the evidence presented at the hearing. The Hearing Officer may decide the issues based upon the Agency's written report standing alone if the Person that petitioned for a hearing fails to appear at the time of the hearing and no other affected Person

appears to present evidence. The ruling shall include the remedy, if any, that is ordered by the Hearing Officer.

Sec. 4788-11 - **Service of Ruling** - The Agency shall promptly serve the Hearing Officer's ruling on each Person who was entitled to be served with notice of the hearing and any Person requesting a copy in writing. Said findings and ruling need not be published.

Sec. 4788-12 - **Finality of Ruling** - The Hearing Officer's ruling shall be final upon the date of service of the ruling and, subject to judicial review, shall be binding on the parties. All rulings by the Hearing Officer may be enforced immediately after they become final unless the superior court grants a stay or injunctive relief that prevents or limits enforcement thereof.

Sec. 4789 - **APPEAL**

4789-1 **Appeal of Discretionary Decision of Director** - Any Person aggrieved by a discretionary decision of the Director under this Article may appeal such decision within ten (10) working days of issuance of the decision. The aggrieved Person shall first appeal to the Director in writing, stating why he or she believes the decision is in error. The Director shall provide the aggrieved Person with a final written decision containing the reasons on which such decision is based within thirty (30) working days of receipt of the appeal. If the aggrieved Person is not satisfied with the Director's final written decision, he or she may request a hearing pursuant to section 4788 herein.

4789-2 **Appeal of Ruling of Hearing Officer** – Any Person subject to a final ruling of a Hearing Officer and not satisfied with the Hearing Officer's ruling may appeal such ruling directly to the Board in writing. The appeal to the Board shall

contain a copy of the Hearing Officer's final ruling and state clearly and concisely why the Person is aggrieved by the Hearing Officer's ruling. Any such appeal shall be filed with the Clerk of the Board within ten (10) working days of such ruling. The Clerk of the Board shall promptly set the matter for hearing at a regular meeting of the Board and shall notify the aggrieved Person and the Hearing Officer of the setting. The aggrieved Person and any interested parties may present oral or written testimony at the hearing. After the close of the hearing, the Board shall sustain or deny the appeal, or may modify the Hearing Officer's decision. The decision of the Board is final.

PASSED AND ADOPTED this 22nd day of June, 2004, by the following votes:

AYES: Supervisors Mikels, Flynn, and Parks

NOES: Supervisors Bennett and Long

ABSENT: None

Steve Bennett
Chair, Board of Supervisors

ATTEST: JOHN F. JOHNSTON
Clerk of the Board of Supervisors,
County of Ventura, State of California

By: C. Christina Valenzuela
Deputy Clerk of the Board

EXHIBIT 9

Corresondences to/from Wayne Fishback and representatives

LEA Correspondence to Wayne Fishback or Kate Neiswender *as of 6/1/06*

1. February 2, 2006
2. March 14, 2006
3. April 4, 2006
4. April 27, 2006
5. April 28, 2006

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

April 28, 2006

Kate M. Neiswender
Post Office Box 24617
Ventura, CA 93002

PROCEDURAL QUESTION REGARDING WAYNE FISHBACK PROJECT AND THE ENVIRONMENTAL HEATLH DIVISION DETERMINATION THAT ACTIVITIES ON MR. FISHBACK'S PROPERTY ARE SUBJECT TO STATE SOLID WASTE REGULATIONS

By letter dated April 19, 2006, you raised a procedural question concerning my April 4, 2006 letter to Mr. Fishback. You state that my letter directed Mr. Fishback to "immediately" submit an application for a Type A Disposal Facility." You further state, "We strongly disagree and will be providing you with additional information on that matter shortly." And finally, you indicate that if the County contends that the determination made in the April 4, 2006 letter is appealable, then your letter of April 19, 2006 "must be construed as an appeal."

Although unclear in your letter, it appears that your disagreement is predicated on either the immediacy in which the application was to be submitted, or the fact that an application is required. In response to the first item, I refer you to my April 4, 2006 letter in which Mr. Fishback was directed to submit the required information to the Environmental Health Division by May 1, 2006. Application forms were enclosed with the April 4, 2006 letter to assist Mr. Fishback in complying with this deadline. We disagree with your statement that the April 4, 2006 letter required Mr. Fishback to "immediately" submit these applications when in fact he was given over 20 days. With respect to the application requirement, I refer you to the California Public Resources Code (PRC), Division 30, Part 4, Chapter 3, Section 44002 (a), which states: "No person shall operate a solid waste facility without a solid waste facilities permit if that facility is required to have a permit pursuant to this division."

In response to your request for an appeal, I refer you to PRC, Section 44307 which sets forth the actions, or lack thereof, taken by a Local Enforcement Agency that can be appealed. These actions include:

1. imposition of permit conditions that a permit applicant believes are inappropriate,

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2. initiation of any enforcement action taken pursuant to PRC, Part 5, commencing with Section 45000, or

3. alleged failure of a Local Enforcement Agency to act as required by law or regulation.

Therefore, since the Environmental Health Division as the Local Enforcement Agency has not taken any of the actions listed above, the determination(s) that you reference are not appealable. In the event the Environmental Health Division imposes permit conditions that your client believes are inappropriate, or if we take an enforcement action pursuant to PRC, Part 5, Mr. Fishback will be provided with information concerning the appeal process.

Please call me at 805/654-2821 if you have any questions.

William C. Stratton

WILLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

c: Wayne Fishback
Jarrod Degonia, Supervisor Mikels' Office
Marty Robinson, RMA
Robert Gallagher, RMA/EHD
Chris Stephens, RMA/Planning
Dale Dean, Ventura County Resources Conservation District
Cathleen Oliver, CIWMB
Rod Nelson, LARWQCB
Ray Guiterrez, Ventura County Public Works Agency
Diane Hall, RMA/EHD ✓

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

April 27, 2006

Kate M. Neiswender
P. O. Box 24617
Ventura, CA 93002

ENVIRONMENTAL HEALTH DIVISION RESPONSE TO LETTER DATED MARCH 17, 2006 FROM KATE NEISWENDER REGARDING PROPERTY LOCATED ALONG THE NORTH AMERICAN CUTOFF ROAD OWNED OR CONTROLLED BY MR. WAYNE FISHBACK

By letter dated March 17, 2006, you asked the Environmental Health Division (EHD) to state whether we agree or disagree with your conclusion that activities on Mr. Fishback's property should be exempt from regulation and that we explain our position in detail. In support of your conclusion, you reference California Code of Regulations Title 14 (14CCR), Article 5.9, Section 17380(g), and Article 6.0, Section 17402.5(c)(8). Your letter also states that although Mr. Fishback is only using "clean fill" at this time for erosion control, he continues to accept loads of concrete and other materials that are being stockpiled on his property.

In response to your request, I refer you to my April 4, 2006 letter (copy enclosed) to Mr. Fishback that provides a detailed explanation of our determination that the final deposition of solid waste on Mr. Fishback's property is subject to the statutory requirements found in the Public Resources Code, Division 30 as well as regulations set forth in 14CCR, Article 5.95, and requirements contained in the Ventura County Ordinance Code.

In further response, Article 5.9 that you cite is titled Construction and Demolition and Inert Debris Transfer/Processing Regulatory Requirements and only applies to the transfer and processing of construction and demolition debris solid waste and inert debris defined in 14CCR Section 17381. Article 6.0 is titled Transfer/Processing Operations and Facilities Regulatory Requirements, and sets forth requirements for operations and facilities that receive, store, handle, recover, transfer, or process all types of solid waste. Operations and facilities that are not subject to Article 6.0 include; auto dismantlers, buy back centers, recycling centers, rendering plants, reuse salvage operations and other similar uses listed in Article 6.0, Section 17402.5. In general, the transfer and processing regulations govern solid waste that is ultimately transferred and therefore removed from the processing location. Solid waste is delivered to a transfer

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Internet Web Site Address: www.ventura.org/envhealth

processing facility where it is separated, recovered, reduced, or otherwise handled, and the waste is then transferred from the processing location to another location or facility for recycling, reuse, or disposal.

Your citation of Article 5.9, and specifically Section 17380 (g), to support your position, is an incorrect application of this Article. Subsection (g) identifies persons for which article 5.9 does not apply. This subsection applies 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 at the site of the construction work or who own the land, buildings, and 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 (emphasis added). Examples of the persons and types of activities listed in subsection (g) include; public works agencies constructing roads and bridges, road repair, airport runway construction, bridge and roadway work, flood control work, and public and private contractors demolishing or constructing buildings.

By comparison, Mr. Fishback's operation receives swimming pool demolition waste, bricks, stucco, and other similar types of waste and disposes this waste on his property. Clearly, Mr. Fishback is not operating a transfer/processing operation or facility and therefore the exclusions and exceptions to the regulations contained in the articles you cite are not relevant to the disposal of solid waste taking place on Mr. Fishback's property. Thus, the Environmental Health Division does not agree with your position that activities on Mr. Fishback's property should be exempt from State regulations.

As stated in my April 4, 2006 letter, the Environmental Health Division is designated as the Local Enforcement Agency (LEA) in Ventura County pursuant to the Public Resources Code (PRC), Division 30, Part 4, Chapter 2. The LEA has the authority and responsibility to make decisions and/or determinations as to how State and local regulations apply to the storage, handling, and disposal of solid waste throughout Ventura County. Under our authority as the LEA, we determined that the activities on Mr. Fishback's property are classified as an Inert Debris Type A Disposal Facility and are subject to the permitting and operational requirements set forth in 14 CCR, Sections 17388.4, and 18100. Mr. Fishback was directed to submit to EHD by May 1, 2006, applications for a Registration permit, and County Health Permit, as well as a Waste Receipt Questionnaire and obtain a Registration Permit and Health Permit to operate a disposal facility.

Be advised, the Environmental Health Division is prepared to move forward with an enforcement action if Mr. Fishback continues to receive and dispose solid waste on property he owns or controls without the required permits as described above.

Please call me at 805/654-2821 if you have any questions.

William C. Stratton

WILLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

Enclosure

c: Wayne Fishback (w/ Enclosure)
Jarrod Degonia, Supervisor Mikels' Office (w/ Enclosure)
Marty Robinson, RMA (w/ Enclosure)
Robert Gallagher, EHD (w/ Enclosure)
Chris Stephens, RMA/Planning (w/ Enclosure)
Dale Dean, Ventura County Resource Conservation District (w/ Enclosure)
Cathleen Oliver, CIWMB (w/ Enclosure)
Rod Nelson, LARWQCB (w/ Enclosure)
Ray Guiterrez, Ventura County Public Works Agency (w/ Enclosure)
Diane Hall, EHD (w/ Enclosure)

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

April 4, 2006

Wayne Fishback
3106 Calusa Ave.
Simi Valley, CA 93063

DETERMINATION OF REGULATORY OVERSIGHT FOR THE DISPOSAL OF SOLID WASTE INCLUDING INERT DEBRIS ON PROPERTY OWNED OR CONTROLLED BY MR. WAYNE FISHBACK LOCATED IN THE AREA KNOWN AS THE NORTH AMERICAN CUTOFF

The County of Ventura Environmental Health Division (EHD) is designated as the Local Enforcement Agency (LEA) in Ventura County pursuant to the Public Resources Code (PRC), Division 30, Part 4, Chapter 2. The LEA has the authority and responsibility to make decisions and/or determinations as to how State and local regulations apply to the storage, handling, and disposal of solid waste throughout Ventura County.

On February 22, 2006, representatives from the LEA and the California Integrated Waste Management Board (CIWMB) accompanied you and your representatives on a site inspection of your property. We observed two areas where solid waste consisting of concrete and brick had been deposited and a third area that is currently receiving this material. Subsequent to our site visit, the LEA received the following information concerning the solid waste disposal activity on your property:

1. Tonnages and dates when material was delivered to the site. This information was received via email dated March 28, 2006 from Wayne Fishback.

2. Several signed documents entitled "Statement of Facts" that list, among other information, the materials delivered, the name of hauling company, and the names of truck drivers. Listed material includes "clean concrete, clean dirt, clean cast concrete products, clean cast clay products, clean stucco, and mixtures of the above clean material." This information was received by EHD via a cover letter, dated March 27, 2006, from Ms. Kate Neiswender.

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Internet Web Site Address: www.ventura.org/envhealth

3. Several examples of delivery invoices from one of the hauling companies. The invoices identify the truck driver and the type of material delivered to the property.

4. Handwritten inspection notes that identify the dates and describe the various materials delivered to the property.

Based on our observations during the site visit and our review of the information described above, the LEA determined that the activity involving the types of solid waste material received and the final deposition of this material on the subject property is classified as an Inert Debris Type A Disposal Facility pursuant to the California Code of Regulations, Title 14 (14 CCR), Section 17388.4. Inert Debris Type A Disposal Facilities shall obtain a Registration Tier Permit as set forth in 14 CCR, Section 17388.4 and shall comply with the Registration Permit requirements set forth in 14 CCR, Section 18100.

This determination is based on the following:

1. The California Public Resources Code (PRC), Division 30, Part 1, Chapter 2, Section 40191, defines demolition and construction wastes as "solid waste".

2. 14 CCR, Article 5.95, Section 17388 (k) defines inert debris as "solid waste".....

3. Type A inert debris is defined in 14 CCR, Article 5.95, Section 17388(k)(1), as "waste" that includes but is not limited to concrete (including steel reinforcing bar embedded in the concrete), plaster, brick, clay and clay products; and does not contain soluble pollutants at concentrations of water quality objectives.

4. PRC, Section 40192, defines "solid waste disposal" or "disposal" as the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the State.

5. 14 CCR, Article 5.95, Section 17387, sets forth the permitting requirements, tier requirements, and minimum operating standards for operations and facilities that dispose construction and demolition (C&D) waste and inert debris.

6. The disposal of solid waste on the subject property does not qualify as an excluded inert debris engineered fill activity pursuant to 14 CCR, Article 5.95, Section 17388.2 (a)(3), nor as an inert debris engineered fill operation as set forth in 14 CCR, Article, 5.95, Section 17388.3, because the overall project exceeds/or will exceed one year; and no documentation has been provided that demonstrates that placement of the material has been designed by an engineer to act as a structural element of a

constructed work and has been placed under engineering inspection. To qualify as an "excluded inert debris engineered fill activity" or an "inert debris engineered debris fill operation", the 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 [14 CCR, Article 5.95, Section 17388 (g)].

To comply with the Public Resources Code, California Code of Regulations, and the Ventura County Ordinance Code with respect to the disposal of solid waste, the following information must be submitted to the Environmental Health Division by May 1, 2006:

1. Completed APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS, CIWMB Form E 83, and a deposit in the amount of $2,000.00. The deposit will be placed in a trust account and drawn against to cover the LEA costs for processing the solid waste permit application. Money left over at the end of the review process will be refunded. The application form is enclosed.

2. Completed EHD application form for a Solid Waste Health Permit and application fee in the amount $74.00. The application form is enclosed.

3. Provide a monthly tonnage report to the LEA by completing a Waste Receipt Questionnaire. The reporting form is due in the EHD/LEA office by the 15th of the month for the previous month's activity. The solid waste disposal activities on this property may be subject to the solid waste control fee set forth in the Ventura County Ordinance Code. A reporting form is enclosed.

If the above information is not submitted to the Environmental Health Division by the May 1, 2006, enforcement action may be initiated.

Be advised that compliance with State and local solid waste requirements does not relieve you as the owner and operator of the solid waste operation from the laws or regulations of any other County of Ventura Agency or department, including Public Works Agency Grading Section or other State agency or department.

EHD responses to issues in Ms. Kate Neiswender's March 17, 2006 letter and your March 31, 2006 email to Robert Gallagher will be addressed under a separate cover letter.

If you have any questions, please call Diane Hall at 805/654-2433. Additionally, as we discussed in our meeting on March 27, 2006, please call me at 805/654-2821 to schedule a follow up meeting if you wish to discuss our determination.

William C. Stratton

WILLLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

Enclosures (3):

1. CIWMB Form E 83
2. EHD application form for a Solid Waste Health Permit and application
3. LEA Waste Receipt Questionnaire

c: Cathleen Oliver, CIWMB (w/o Enclosures) Via fax: 916/319-7426
Chris Stephens, Ventura County RMA/Planning Division (w/o Enclosures)
Rod Nelson, LARWQCB (w/o Enclosures)
Keith Mashburn, Supervisor Mikels' Office (w/o Enclosures)
Marty Robinson, RMA (w/o Enclosures)
Robert Gallagher, EHD (w/o Enclosures)
Melinda Talent, EHD (w/o Enclosures)
Pat Reyes, EHD Accounts Receivable (w/o Enclosures)

State of California - CIWMB Form 83 (rev. 12/96)

California Integrated Waste Management Board

Registration Permit Application

Facility Name:

Address/Location:

Phone Number:

Facility Operator:	Land Owner:
Mailing Address:	Mailing Address:
Address Where Process May be Served:	Address Where Process May be Served:
Phone Number:	Phone Number:

Facility Information:

Section Authorizing Eligibility:

Volume and Type of Waste/Materials(s) Handled:

Site Capacity: _____ Cubic Yards or Tons
Peak Loading: _____ Cubic Yards or Tons /Day
Annual Loading: _____ Cubic Yards or Tons

Days and Hours of Operation:

Facility Size: _____ Area
Staging Area: _____ Area

Traffic:
Incoming Waste Material: _____ Vehicles Per Day
Outgoing Waste Material: _____ Vehicles Per Day

One of the Following Statements Must be Checked:

[ ] The facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code 50000; and the facility is consistent with the city or county General Plan.

[ ] The facility is identified in either the countywide siting element, the nondisposal facility element, or in the source reduction and recycling element for the jurisdictions in which it is located ;or that the facility is not required to be identified in any of these elements pursuant to section 50001 of the Public Resources Code.

I hereby acknowledge that I have read this application, and certify under penalty of perjury that the information provided is true and accurate. In operating the facility, I agree to comply with the conditions of the permit, and with federal, state, and local enactments.

Signature of Land Owner: _____ Date: _____

Signature of Operator: _____ Date: _____

This application must be accompanied by a ☐ General Description ☐ Site Plan, and ☐ Location Map.

Enforcement Agency Name and Address:	FOR ENFORCEMENT AGENCY USE ONLY
	Date received: Date approved: Date rejected: Filing Fee: SWIS #:

Instructions for Completing Registration Application:

Fill out this application form completely and accurately. After the Enforcement Agency has review[ed] the application, it will determine whether it meets the requirements of section 18104.1. If the Enforcement Agency finds that the application is complete and correct, a copy of this application and a permit will be returned to you. If the application is not found to be complete and correct it will not be accepted for filing. For additional information on the procedure used for processing this application refer to Title 14 of the California Code of Regulations, Section 181094 et. seq.

Facility Name: The legal name of the facility.
Facility Address/Location: The address of the facility and a description of the location if different.
Facility Operator/Land Owner: Provide both the mailing addresses and the location/address where process may be served.

Section Authorizing Eligibility:
You must determine the appropriate Section in Chapters 3 or 3.1 of Division 7 of Title 14 of the California Code of Regulations that authorizes eligibility. After determining the appropriate section list it on the application.

Site Capacity: Total capacity of material that can be stored at the site at any one time.
Peak Loading: Is the largest projected waste/material quantity to be received by an operation on any day of operation.
Annual Loading: Is the maximum amount of waste/material to be handled by an operation annually.

Days and hours of Operation: The days and hours that the facility is in operation.

Facility Size: The total acreage of the site.
Operating area: The total acreage that is used for all operations.

Traffic: State the maximum number of vehicles that will enter and haul incoming material or remove material on a daily basis.

The operator is required to supply conformance-finding information. Whichever one of the two statements above is appropriate to your operation must be checked. To help you in making this determination, you can contact the Enforcement Agency, Local Task Force, or other solid waste-planning agency in your city or county.

The application must include a site map and a location map. The site map should include, but not be limited to, operations areas and their relationships to property boundaries, adjacent land uses, proposed drainage systems, any excavation areas, and any other portions of the site dedicated to a specific use. The location map should show the general location of the operation at a scale size minimally equivalent to 1:24,000 USGS topographical quadrangle.

This application must be signed, under penalty of perjury, by both the land owner and the operator.

Ventura County Environmental Health Division
800 S. Victoria Ave., Ventura CA 93009-1730
TELEPHONE: 805/654-2813 or FAX: 805/654-2480
Internet Web Site Address: www.ventura.org/envhealth

Application for Solid Waste Health Permit
(Ventura County Ordinance Code, Section 4702-1)

Instructions to Applicant:

1. Complete all of the information below.
2. Once this application is approved, you will be invoiced annually for this health permit. Note, as approved by the Board of Supervisors, the solid waste health permit fee for fiscal year 2004-2005 (July 1, 2004-June 30, 2005) is $74.00.

Type of Application	Solid Waste Activity/Operation	
___ New	___ Disposal Facility	PE 6303
___ Change of Information	___ Transfer/Processing Operation/Facility	PE 6301
___ Change of Ownership	___ Compost Facility	PE 6314
	___ Chipping and Grinding Facility	PE 6315
	___ Construction & Demolition Operation/Facility	PE 6306

Business Name (DBA) _____

Business Owner _____

Site Address _____

_____

Telephone _____

Billing Address ___ Same as Site Address

___ Other _____

_____

Contact Person _____

Contact Telephone _____

I hereby certify that I am the owner or authorized representative of the above business and that all statements are true to the best of my knowledge.

Signature _____ Date _____

RESOURCE MANAGEMENT AGENCY

county of ventura

Environmental Health Division
Robert Gallagher
Director

VENTURA COUNTY WASTE RECEIPT QUESTIONNAIRE

For Solid Waste Operations and Facilities

Name _____

Street Address _____

City _____ Zip Code _____

Telephone Number _____

COMPLETE THE INFORMATION BELOW AND SUBMIT PRIOR TO THE 15TH OF THE FOLLOWING MONTH

1. MONTH _____

2. TOTAL TONS OF WASTE RECEIVED DURING THE MONTH

   Tons/Cubic Yards _____

3. WAS THE SOLID WASTE CONTROL TIPPING FEE PAID AT ANOTHER LOCATION?

   YES _____ Where? _____

   NO _____

4. PREPARED BY _____ DATE _____

5. I have reviewed this questionnaire and declare under penalty of perjury that the information herein is true and correct to the best of my knowledge.

   Signature _____

   Date _____

PLEASE RETURN TO:

SHARI HOLLOWAY
Ventura County
Environmental Health Division
800 South Victoria Avenue
Ventura, CA 93009-1730

Office: 805/654-2859
Fax: 805/654-2480

Collins/SOLIDWST/Solid Waste Questionnaire 9 6 05

RESOURCE MANAGEMENT AGENCY
county of ventura

Environmental Health Division
Robert Gallagher
Director

April 4, 2006

Wayne Fishback
3106 Calusa Ave.
Simi Valley, CA 93063

DETERMINATION OF REGULATORY OVERSIGHT FOR THE DISPOSAL OF SOLID WASTE INCLUDING INERT DEBRIS ON PROPERTY OWNED OR CONTROLLED BY MR. WAYNE FISHBACK LOCATED IN THE AREA KNOWN AS THE NORTH AMERICAN CUTOFF

The County of Ventura Environmental Health Division (EHD) is designated as the Local Enforcement Agency (LEA) in Ventura County pursuant to the Public Resources Code (PRC), Division 30, Part 4, Chapter 2. The LEA has the authority and responsibility to make decisions and/or determinations as to how State and local regulations apply to the storage, handling, and disposal of solid waste throughout Ventura County.

On February 22, 2006, representatives from the LEA and the California Integrated Waste Management Board (CIWMB) accompanied you and your representatives on a site inspection of your property. We observed two areas where solid waste consisting of concrete and brick had been deposited and a third area that is currently receiving this material. Subsequent to our site visit, the LEA received the following information concerning the solid waste disposal activity on your property:

1. Tonnages and dates when material was delivered to the site. This information was received via email dated March 28, 2006 from Wayne Fishback.

2. Several signed documents entitled "Statement of Facts" that list, among other information, the materials delivered, the name of hauling company, and the names of truck drivers. Listed material includes "clean concrete, clean dirt, clean cast concrete products, clean cast clay products, clean stucco, and mixtures of the above clean material." This information was received by EHD via a cover letter, dated March 27, 2006, from Ms. Kate Neiswender.

800 South Victoria Avenue, Ventura, CA 93009-1730 (805) 654-2813 FAX (805) 654-2480
Internet Web Site Address: www.ventura.org/envhealth

3. Several examples of delivery invoices from one of the hauling companies. The invoices identify the truck driver and the type of material delivered to the property.

4. Handwritten inspection notes that identify the dates and describe the various materials delivered to the property.

Based on our observations during the site visit and our review of the information described above, the LEA determined that the activity involving the types of solid waste material received and the final deposition of this material on the subject property is classified as an Inert Debris Type A Disposal Facility pursuant to the California Code of Regulations, Title 14 (14 CCR), Section 17388.4. Inert Debris Type A Disposal Facilities shall obtain a Registration Tier Permit as set forth in 14 CCR, Section 17388.4 and shall comply with the Registration Permit requirements set forth in 14 CCR, Section 18100.

This determination is based on the following:

1. The California Public Resources Code (PRC), Division 30, Part 1, Chapter 2, Section 40191, defines demolition and construction wastes as "solid waste".

2. 14 CCR, Article 5.95, Section 17388 (k) defines inert debris as "solid waste".....

3. Type A inert debris is defined in 14 CCR, Article 5.95, Section 17388(k)(1), as "waste" that includes but is not limited to concrete (including steel reinforcing bar embedded in the concrete), plaster, brick, clay and clay products; and does not contain soluble pollutants at concentrations of water quality objectives.

4. PRC, Section 40192, defines "solid waste disposal" or "disposal" as the final deposition of solid wastes onto land, into the atmosphere, or into the waters of the State.

5. 14 CCR, Article 5.95, Section 17387, sets forth the permitting requirements, tier requirements, and minimum operating standards for operations and facilities that dispose construction and demolition (C&D) waste and inert debris.

6. The disposal of solid waste on the subject property does not qualify as an excluded inert debris engineered fill activity pursuant to 14 CCR, Article 5.95, Section 17388.2 (a)(3), nor as an inert debris engineered fill operation as set forth in 14 CCR, Article, 5.95, Section 17388.3, because the overall project exceeds/or will exceed one year; and no documentation has been provided that demonstrates that placement of the material has been designed by an engineer to act as a structural element of a

constructed work and has been placed under engineering inspection. To qualify as an "excluded inert debris engineered fill activity" or an "inert debris engineered debris fill operation", the 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 [14 CCR, Article 5.95, Section 17388 (g)].

To comply with the Public Resources Code, California Code of Regulations, and the Ventura County Ordinance Code with respect to the disposal of solid waste, the following information must be submitted to the Environmental Health Division by May 1, 2006:

1. Completed APPLICATION FOR SOLID WASTE FACILITY PERMIT/WASTE DISCHARGE REQUIREMENTS, CIWMB Form E 83, and a deposit in the amount of $2,000.00. The deposit will be placed in a trust account and drawn against to cover the LEA costs for processing the solid waste permit application. Money left over at the end of the review process will be refunded. The application form is enclosed.

2. Completed EHD application form for a Solid Waste Health Permit and application fee in the amount $74.00. The application form is enclosed.

3. Provide a monthly tonnage report to the LEA by completing a Waste Receipt Questionnaire. The reporting form is due in the EHD/LEA office by the 15th of the month for the previous month's activity. The solid waste disposal activities on this property may be subject to the solid waste control fee set forth in the Ventura County Ordinance Code. A reporting form is enclosed.

If the above information is not submitted to the Environmental Health Division by the May 1, 2006, enforcement action may be initiated.

Be advised that compliance with State and local solid waste requirements does not relieve you as the owner and operator of the solid waste operation from the laws or regulations of any other County of Ventura Agency or department, including Public Works Agency Grading Section or other State agency or department.

EHD responses to issues in Ms. Kate Neiswender's March 17, 2006 letter and your March 31, 2006 email to Robert Gallagher will be addressed under a separate cover letter.

If you have any questions, please call Diane Hall at 805/654-2433. Additionally, as we discussed in our meeting on March 27, 2006, please call me at 805/654-2821 to schedule a follow up meeting if you wish to discuss our determination.

William C. Stratton

WILLLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

Enclosures (3):

1. CIWMB Form E 83
2. EHD application form for a Solid Waste Health Permit and application
3. LEA Waste Receipt Questionnaire

c: Cathleen Oliver, CIWMB (w/o Enclosures) Via fax: 916/319-7426
Chris Stephens, Ventura County RMA/Planning Division (w/o Enclosures)
Rod Nelson, LARWQCB (w/o Enclosures)
Keith Mashburn, Supervisor Mikels' Office (w/o Enclosures)
Marty Robinson, RMA (w/o Enclosures)
Robert Gallagher, EHD (w/o Enclosures)
Melinda Talent, EHD (w/o Enclosures)
Pat Reyes, EHD Accounts Receivable (w/o Enclosures)

State of California - CIWMB Form 83 (rev. 12/96)

California Integrated Waste Management Board

Registration Permit Application

Facility Name:

Address/Location:

Phone Number:

Facility Operator:	Land Owner:
Mailing Address:	Mailing Address:
Address Where Process May be Served:	Address Where Process May be Served:
Phone Number:	Phone Number:

Facility Information:

Section Authorizing Eligibility:

Volume and Type of Waste/Materials(s) Handled:

Site Capacity: _____ Cubic Yards or Tons
Peak Loading: _____ Cubic Yards or Tons /Day
Annual Loading: _____ Cubic Yards or Tons

Days and Hours of Operation:

Facility Size: _____ Area
Staging Area: _____ Area

Traffic:
Incoming Waste Material: _____ Vehicles Per Day
Outgoing Waste Material: _____ Vehicles Per Day

One of the Following Statements Must be Checked:

[ ] The facility is identified and described in or conforms with the County Solid Waste Management Plan, or otherwise complies with Public Resources Code 50000; and the facility is consistent with the city or county General Plan.

[ ] The facility is identified in either the countywide siting element, the nondisposal facility element, or in the source reduction and recycling element for the jurisdictions in which it is located ;or that the facility is not required to be identified in any of these elements pursuant to section 50001 of the Public Resources Code.

I hereby acknowledge that I have read this application, and certify under penalty of perjury that the information provided is true and accurate. In operating the facility, I agree to comply with the conditions of the permit, and with federal, state, and local enactments.

Signature of Land Owner: _____ Date: _____

Signature of Operator: _____ Date: _____

This application must be accompanied by a ☐ General Description ☐ Site Plan, and ☐ Location Map.

Enforcement Agency Name and Address:	FOR ENFORCEMENT AGENCY USE ONLY
	Date received: Date approved: Date rejected: Filing Fee: SWIS #:

Instructions for Completing Registration Application:

Fill out this application form completely and accurately. After the Enforcement Agency has review[ed] the application; it will determine whether it meets the requirements of section 18104.1. If the Enforcement Agency finds that the application is complete and correct, a copy of this application and a permit will be returned to you. If the application is not found to be complete and correct it will not be accepted for filing. For additional information on the procedure used for processing this application refer to Title 14 of the California Code of Regulations, Section 181094 et. seq.

Facility Name: The legal name of the facility.
Facility Address/Location: The address of the facility and a description of the location if different.
Facility Operator/Land Owner: Provide both the mailing addresses and the location/address where process may be served.

Section Authorizing Eligibility:
You must determine the appropriate Section in Chapters 3 or 3.1 of Division 7 of Title 14 of the California Code of Regulations that authorizes eligibility. After determining the appropriate section list it on the application.

Site Capacity: Total capacity of material that can be stored at the site at any one time.
Peak Loading: Is the largest projected waste/material quantity to be received by an operation on any day of operation.
Annual Loading: Is the maximum amount of waste/material to be handled by an operation annually.

Days and hours of Operation: The days and hours that the facility is in operation.

Facility Size: The total acreage of the site.
Operating area: The total acreage that is used for all operations.

Traffic: State the maximum number of vehicles that will enter and haul incoming material or remove material on a daily basis.

The operator is required to supply conformance-finding information. Whichever one of the two statements above is appropriate to your operation must be checked. To help you in making this determination, you can contact the Enforcement Agency, Local Task Force, or other solid waste-planning agency in your city or county.

The application must include a site map and a location map. The site map should include, but not be limited to, operations areas and their relationships to property boundaries, adjacent land uses, proposed drainage systems, any excavation areas, and any other portions of the site dedicated to a specific use. The location map should show the general location of the operation at a scale size minimally equivalent to 1:24,000 USGS topographical quadrangle.

This application must be signed, under penalty of perjury, by both the land owner and the operator.

Ventura County Environmental Health Division
800 S. Victoria Ave., Ventura CA 93009-1730
TELEPHONE: 805/654-2813 or FAX: 805/654-2480
Internet Web Site Address: www.ventura.org/envhealth

Application for Solid Waste Health Permit
(Ventura County Ordinance Code, Section 4702-1)

Instructions to Applicant:

1. Complete all of the information below.
2. Once this application is approved, you will be invoiced annually for this health permit. Note, as approved by the Board of Supervisors, the solid waste health permit fee for fiscal year 2004-2005 (July 1, 2004-June 30, 2005) is $74.00.

Type of Application	Solid Waste Activity/Operation	
___ New	___ Disposal Facility	PE 6303
___ Change of Information	___ Transfer/Processing Operation/Facility	PE 6301
___ Change of Ownership	___ Compost Facility	PE 6314
	___ Chipping and Grinding Facility	PE 6315
	___ Construction & Demolition Operation/Facility	PE 6306

Business Name (DBA) _____

Business Owner _____

Site Address _____

_____

Telephone _____

Billing Address ___ Same as Site Address

___ Other _____

_____

Contact Person _____

Contact Telephone _____

I hereby certify that I am the owner or authorized representative of the above business and that all statements are true to the best of my knowledge.

Signature _____ Date _____

RESOURCE MANAGEMENT AGENCY

county of ventura

Environmental Health Division
Robert Gallagher
Director

VENTURA COUNTY WASTE RECEIPT QUESTIONNAIRE

For Solid Waste Operations and Facilities

Name _____

Street Address _____

City _____ Zip Code _____

Telephone Number _____

COMPLETE THE INFORMATION BELOW AND SUBMIT PRIOR TO THE 15TH OF THE FOLLOWING MONTH

1. MONTH _____

2. TOTAL TONS OF WASTE RECEIVED DURING THE MONTH

   Tons/Cubic Yards _____

3. WAS THE SOLID WASTE CONTROL TIPPING FEE PAID AT ANOTHER LOCATION?

   YES _____ Where? _____

   NO _____

4. PREPARED BY _____ DATE _____

5. I have reviewed this questionnaire and declare under penalty of perjury that the information herein is true and correct to the best of my knowledge.

   Signature _____

   Date _____

PLEASE RETURN TO: SHARI HOLLOWAY
Ventura County
Environmental Health Division
800 South Victoria Avenue
Ventura, CA 93009-1730

Office: 805/654-2859
Fax: 805/654-2480

Collins/SOLIDWST/Solid Waste Questionnaire 9 8 05

RESOURCE MANAGEMENT AGENCY
County of Ventura

Environmental Health Division
Robert Gallagher
Director

March 14, 2006

Wayne Fishback
3106 Calusa Ave.
Simi Valley, CA 93063

SITE VISIT TO PROPERTY OWNED OR CONTROLLED BY WAYNE FISHBACK LOCATED IN VENTURA COUNTY IN THE AREA GENERALLY REFERRED TO AS THE NORTH AMERICAN CUTOFF ROAD

Thank you for coordinating the site visit to your property on Wednesday, February 22, 2006. The Environmental Health Division's (EHD) interest in your project and the purpose of our visit was twofold. The first was to conduct an inspection of your property in response to a complaint we received alleging the illegal disposal of trash and other material. The second was to observe the on-going landfilling project, and more specifically, the types of materials that have been accepted and the various locations where these materials were deposited.

At your request, representatives from the California Integrated Waste Management Board, Ventura County Environmental Health Division (Local Enforcement Agency), Supervisor Judy Mikels, as well as your representatives were in attendance. A list of attendees (Enclosure 1) is attached.

During our visit, we discussed the deposition of solid waste/land fill operation taking place on property owned or controlled by you; the types of material accepted; and the types of records/documentation in your possession that indicate/verify the types and quantities of material that were/are accepted. You agreed to submit to EHD copies of the following documents, as well as an unedited copy of the video (with audio) taken by your representative during the entire site visit. EHD will use this information to determine the applicability of state and local solid waste statutes, regulations, and ordinance with respect to the solid waste disposal/ landfill operation on your property:

- Engineering reports of relevant project activities
- Results of geologic borings
- Names of the haulers/hauling companies
- Identification of the types and amounts of solid waste/landfill material delivered to your property for the project
- Dates as to when the project(s) at the various sites commenced and the proposed completion date

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Internet Web Site Address: www.ventura.org/envhealth

We look forward to receipt of this information and your continued cooperation in this matter. I have attached copies of the photographs taken by EHD staff during the site visit. Should you have any questions with respect to any of the above, or require additional information, please contact Diane Hall of my staff at 805/654-2433.

Richard R. Hauge

RICHARD HAUGE for

WILLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

Enclosures

c: Keith Mashburn, Supervisor Mikels' Office(w/o Enclosures)
Marty Robinson, RMA (w/o Enclosures)
Kathleen Oliver, CIWMB (w/o Enclosures)
Robert Gallagher, EHD (w/o Enclosures)
Richard Hauge, EHD (w/o Enclosures)
Diane Hall, EHD (w/o Enclosures) ✓

ATTENDANCE DURING SITE VISIT
WAYNE FISHBACK PROPERTY

FEBRUARY 22, 2006

Wayne Fishback
Mrs. Fishback
Kate Neiswender
Phil Sherman
Larry Troxel
Videographer/photographer
Keith Mashburn (Supervisor Mikels' Office)
William C. Stratton (EHD, LEA)
Richard Hauge (EHD,LEA)
Diane Hall (EHD, LEA)
Kitty Oliver (CIWMB)
Bill Marciniak (CIWMB)

RESOURCE MANAGEMENT AGENCY
County of Ventura

Environmental Health Division
Robert Gallagher
Director

February 2, 2006

Wayne Fishback
2049 Century Park East
Los Angeles, CA 90067

SUMMARY OF MEETING TO DISCUSS SOLID WASTE DISPOSAL ON THE PROPERTY LOCATED ALONG THE ROAD KNOWN AS "THE NORTH AMERICAN CUT OFF" OWNED OR CONTROLED BY MR. WAYNE FISHBACK

Thank you for meeting with us on Tuesday, January 31, 2006, to discuss the issue of solid waste disposal on your property. For the record, the attendees of the meeting were yourself, Phil Sherman, your consulting engineer, Diane Hall and Richard Hauge, of my staff, and me. As we discussed, the Environmental Health Division (EHD) as the Local Enforcement Agency (LEA) received a complaint alleging that illegal dumping of solid waste is taking place on your property. The purpose of our meeting was to discuss the disposal of solid waste on your property and the State and local regulations that address this activity.

During the meeting, you provided a description of your on-going acceptance and handling of solid waste, more specifically, what you described as concrete, dirt, stucco, and other similar materials. You also stated that you have been diligent in the control of this waste stream so that unacceptable materials have not entered your property. You further commented that incoming trucks hauling solid waste to your property are monitored to ensure that only specific types of solid waste are delivered. We discussed State and local regulations with respect to solid waste disposal and the various subcategories of solid waste and solid waste disposal set forth in California Code of Regulations, Title 14, Article 5.95, Section 17387, et seq.

I understand, based on your statements at the meeting, that you will be writing to EHD with your understanding of the regulations and your opinion as to where the solid waste disposal activities on your property fall within the regulatory framework and that we should receive the letter by the end of this week.

While I look forward to your letter, I want to make it very clear so there is no confusion or misunderstanding that EHD has the authority and responsibility to, and will, make all

800 South Victoria Avenue, Ventura, CA 93009-1730 (805) 654-2813 FAX (805) 654-2480
Internet Web Site Address: www.ventura.org/ehd/ehd

decisions and/or determinations as to how State and local regulations apply to solid waste disposal sites, activities, operations, and facilities in Ventura County. Our decisions and determinations will be based upon our on-site observations and may also include:

- the review of any and all available documentation you can provide to support your comments that only specific types of solid wastes were received and disposed;
- review of available truck monitoring/inspection records;
- discussions with waste haulers; and,
- information from other regulatory agencies.

Based on your description of the disposal activities taking place on your property and our review of aerial photographs that support your description of these disposal activities, our preliminary determination is that you are operating or are allowing the operation of a solid waste disposal site on property that you own or control. The level of regulatory oversight for the disposal of solid waste on your property is unknown at this time. Therefore, to make a final determination concerning this oversight and to ensure that public health and the environment are fully protected from the potential adverse impacts associated with solid waste disposal on this property, EHD must have access to your property to conduct a full investigation.

In the meeting, you indicated your willingness to work with us in a cooperative manner to resolve these issues, and in this spirit of cooperation I encourage you to call me within the next week, to schedule a date and time during the following week when we can meet with you or your representative(s) at the property to conduct an inspection.

I look forward to your call and subsequent meeting on-site of your property to further discuss your solid waste disposal site. Should you have any questions with respect to any of the above, please call me at 805/654-2821 or Diane Hall at 805/654-2433.

William C Stratton

WILLIAM C. STRATTON, MANAGER
TECHNICAL SERVICES SECTION
ENVIRONMENTAL HEALTH DIVISION

c: Keith Mashburn, Supervisor Mikels' Office
Marty Robinson, RMA
Robert Gallagher, EHD
Richard Hauge, EHD
Chris Stephens, Ventura County RMA/Planning Division
Dale Dean, Ventura County Resource Conservation District
Kathleen Oliver, CIWMB
Rod Nelson, LARWQCB