COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

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IN REPLY PLEASE
REFER TO FILE: EP-2

September 23, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

PUBLIC HEARING FOR COUNTYWIDE SOLID WASTE MANAGEMENT FEE INCREASE (ALL SUPERVISORIAL DISTRICTS) (3 VOTES)

SUBJECT

Request adoption of the proposed Ordinance to increase the Countywide Solid Waste Management Fee from $0.86 per ton to $1.50 per ton, effective January 1, 2009; authorize annual fee adjustments based on the Consumer Price Index; and make other technical changes.

IT IS RECOMMENDED THAT YOUR BOARD AFTER THE PUBLIC HEARING:

1. Find that adoption of the proposed Ordinance is exempt from the California Environmental Quality Act for the reasons stated in this letter and in the record of the project.

2. Introduce, waive reading, and place on subsequent agenda for adoption the proposed Ordinance amending Title 20 – Utilities, Division 4, of the Los Angeles County Code to increase the Countywide Solid Waste Management Fee applicable to waste disposed at solid waste landfills and transformation facilities from $0.86 per ton to $1.50 per ton, effective January 1, 2009; authorize annual fee adjustments based on changes in the consumer price index beginning July 1, 2010; exclude clean fill projects and conversion technologies, as defined; and make other technical changes.

3. Instruct the Acting Director of Public Works to review all exemptions to the fee on a biennial basis and make recommendations to your Board, as appropriate.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the recommended action is to ensure adequate funding for the continued implementation and expansion of vital Countywide waste reduction, recycling, and pollution prevention programs, as well as solid waste management activities and oversight related to solid waste infrastructure. These include programs and activities necessary to comply with State environmental laws and regulations, as well as Board initiatives and reduce our dependence on solid waste landfills.

The proposed Ordinance would increase the Solid Waste Management Fee from $0.86 per ton to $1.50 per ton, effective January 1, 2009, in order to allow the Department of Public Works (Public Works) to carry out the County's Countywide responsibilities, meet obligations resulting from the adoption of new regulatory requirements (e.g., changes in regulations banning universal waste at landfills), as well as implement additional/enhanced Countywide programs. Table 1 (attached) provides a complete listing of program funding needs projected through Fiscal Year 2009-10. These include program enhancements such as expanding the Countywide Household Hazardous Waste and Electronic Waste Management Program to increase the number of mobile collection events and develop additional permanent collection centers, making it more convenient for residents; accommodating the increased volume of materials being collected; and enhancing and developing additional Countywide waste reduction and recycling programs.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs the provision of Service Excellence (Goal 1), Organizational Effectiveness (Goal 3), Fiscal Responsibility (Goal 4), and Community Services (Goal 6). This action will provide Public Works sufficient funds necessary for the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan. This action will also strengthen the County's ability to meet new regulatory mandates, provide vital programs and services that protect the public's health and safety and the environment, and improve the quality of life in the County.

FISCAL IMPACT/FINANCING

There will be no impact to the County General Fund. Upon your Board's approval, this action will generate additional annual revenue of approximately $2 million in Fiscal Year 2008-09 and approximately $7.3 million in Fiscal Year 2009-10. Necessary revisions will be made in the Solid Waste Management Fund's Fiscal Year 2008-09 Final Budget to include the fee increase.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

Section 41901 of the California Public Resources Code authorizes the County of Los Angeles to impose fees for the reasonable and necessary costs incurred by the County in the preparation, maintenance, adoption, and implementation of the Countywide Integrated Waste Management Plan mandated by Section 40000 et seq. of the California Public Resources Code. These responsibilities have been delegated by the Board of Supervisors to Public Works. To fund these activities, Chapter 20.88 of the Los Angeles County Code imposes a fee on each ton or cubic yard of waste disposed at landfills and transformation facilities located within the County of Los Angeles or exported out of the County for disposal. The current fee of $0.86 per ton is applied as a part of the tipping fee (the fee paid at the gate) paid by customers of solid waste facilities and has not increased since its establishment in 1991.

State law also requires the County to review each Countywide solid waste planning document every five years and amend them as needed. The most recently completed Five-Year Review Report, which was approved by the Los Angeles County Integrated Waste Management Task Force and the California Integrated Waste Management Board, strongly recommended implementing additional programs to further assist cities within the Los Angeles County to meet State mandates and comply with new regulations.

In addition to implementing the findings of the Five-Year Review Report, Public Works must implement many new programs because of new regulations, such as bans on the landfill disposal of electronic waste (televisions, computers, cell phones, etc.), "universal" waste (batteries, fluorescent light bulbs, mercury thermometers, aerosol cans, etc.), and sharps (syringes, etc.). Recently, your Board adopted a number of new environmental initiatives, including the Countywide Energy and Environment Policy, the Los Angeles County Single Use Bag Reduction and Recycling Program, and the No Drugs Down the Drain Program.

The economic impact of the proposal on residents and businesses in the County is expected to be minimal in the order of six cents per household per month. In addition, the development of this proposal took into account feedback from a number of stakeholders, including solid waste facility operators, waste haulers, cities, environmental organizations, and the general public. Most of the funds generated by the fee will continue to be utilized to support and expand the successful and highly popular Countywide Household Hazardous/Electronic Waste Management Program. Based on input received at two regional stakeholder meetings, presentations to interested parties, and other opportunities for public comment, stakeholders were generally supportive of the proposal since it enhances and expands the services available to all ten million residents Countywide.

To ensure the program levels are adequately maintained in future years, the Ordinance establishes an annual review of the fee and automatic adjustment by Public Works based on the Consumer Price Index, beginning July 1, 2010. Public Works will determine the amount of the adjustment and formally notify all appropriate solid waste facility haulers, operators, and other stakeholders of the adjustment prior to July 1 of each year. This adjustment also provides a predictable and regular adjustment of the fee, allowing for solid waste facility owners and operators, their customers, and the cities they serve to make planned adjustments for franchises and other long term contracts.

In addition to adjusting the amount of the fee, the Ordinance includes other technical changes. These include additional definitions that clarify the County's intent in applying the fee and conform to new State regulations, as well as provisions that exempt waste diversion activities such as conversion technologies, the use of certain landfill cover materials, and clean fill projects. The Ordinance also provides a lower fee structure for inert waste landfills, and recognizes diversion activities for waste exported out of the County.

The "Right to Vote on Taxes Act" (Proposition 218) has been reviewed to determine if a vote of the electorate is required in regard to the proposed Ordinance. As confirmed by County Counsel, an election is neither required nor applicable because the fee is not directly associated with or an incident of property ownership. Furthermore, the proposed Ordinance has no impact on property tax bills, including assessed values or dollar amounts charged.

A public hearing is required by Section 66018(a) of the Government Code prior to adoption of the proposed fee increase. In accordance with Sections 66016 and 6062a of the Government Code, notice of the hearing must be published two times in a newspaper of general circulation within a ten-day period with at least five intervening days, as well as mailed at least 14 days in advance to all interested parties who file a written request for such notice. As of the filing of this item, no valid written request for

such notice was on file with Public Works or in the Executive Office of the Board of Supervisors. The proposed Ordinance has been reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

The proposed Ordinance is statutorily exempt from the California Environmental Quality Act (CEQA). Adoption of the proposed Ordinance to increase the Solid Waste Management Fee, exempt certain activities from the fee and make other technical changes is for the purpose of meeting operating expenses and is therefore exempt from CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273(a) of the State CEQA Guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Adoption of the Ordinance will allow Public Works to fully comply with its Countywide solid waste management planning obligations and provide vital programs and services, including complying with State environmental laws and regulations, as well as Board initiatives.

CONCLUSION

Upon Board approval, please return two approved copies of this letter and the Ordinance to the Department of Public Works, Environmental Program Division.

Respectfully submitted,

Fred Bat

for DEAN D. EFSTATHIOU
Acting Director of Public Works

CR:kp

Attachments (2)

c: Chief Executive Office
County Counsel

TABLE 1 --- COUNTYWIDE SOLID WASTE MANAGEMENT PROJECTED COSTS
(Assumes Increase is Effective January 1, 2009)

	FY 08-09 Projection	FY 09-10 Projection	Brief Description
REVENUE*			
* Assumes an annual CPI adjustment of 3% beginning FY 09-10			
SWM FEE REVENUE (no increase - $0.86/ton)	11,867,000	11,069,000	Revenues are based on disposal tonnages which are the result of population/economic growth.
Other Countywide Revenue			
Settlements	234,000	424,000	Settlements received from unpaid solid waste management fees and penalties.
State Grants	508,000	477,000	Grants received for waste tire and HHW used oil public education programs.
County CUP Contributions	2,200,000	2,992,000	Contribution to conversion technology (CT) and HHW programs from Conditional Use Permit (CUP) for landfills in the County Unincorporated Areas (CUA).
TOTAL REVENUE WITHOUT FEE INCREASE	**14,809,000**	**14,962,000**	
SWM FEE REVENUE (w/ increase - $1.50/ton)	13,834,000	18,203,000	
Other Countywide Revenue			
Settlements	234,000	424,000	Settlements received from unpaid solid waste management fees and penalties.
State Grants	508,000	477,000	Grants received for waste tires and HHW used oil public education.
County CUP Contributions	2,200,000	2,992,000	Contribution to conversion technology and HHW programs from CUP for landfills in the CUA.
TOTAL REVENUE WITH FEE INCREASE	**16,776,000**	**22,096,000**	
PROJECTED PROGRAM COSTS			
HHW PROGRAMS			
Household Hazardous Waste/E-waste Management	8,000,000	8,100,000	Weekly mobile collection events. We also have a partnership with the City of Los Angeles to allow the City's 6 permanent collection centers open to all residents countywide.
HHW/E-waste Public Education Campaign	98,000	377,000	Educates residents about alternative products and promotes HHW/E-waste roundups and permanent collection centers.
Development of HHW/E-waste Permanent Collection Centers	340,000	897,000	Facilitates the siting and construction of HHW/E-waste permanent collection centers.
O&M of HHW/E-waste Permanent Collection Centers	458,000	461,000	Operational expenses for the AVECC, and future permanent HHW/E-waste collection centers.
Household Battery Collection	27,000	371,000	Establishes collection containers at retail locations in order for residents to recycle their household batteries.
Sharps Collection	92,000	106,000	Provides residents with sharps containers.
Special Waste Outreach (e.g. u-waste, drugs)	65,000	73,000	Provides outreach on waste streams banned from disposal. Proactively educates the public on new State mandates as they become necessary.
Used Oil Collection Centers	312,000	328,000	Operational expenses of 9 permanent used oil collection centers.
Used Oil Recycling Public Education	739,000	775,000	Educates residents to properly manage their used oil.
Sub-total	**10,131,000**	**11,488,000**	

TABLE 1 --- COUNTYWIDE SOLID WASTE MANAGEMENT PROJECTED COSTS
(Assumes Increase is Effective January 1, 2009)

	FY 08-09 Projection	FY 09-10 Projection	Brief Description
PROJECTED PROGRAM COSTS (cont.)			
RECYCLING & INFORMATION MANAGEMENT PROGRAMS			
Conversion Technology	720,000	722,000	Promotes the development of CT facilities to reduce dependence on landfills.
Smart Gardening	1,440,000	1,444,000	Educates residents on composting, grass recycling, and water-wise and fire-wise gardening techniques.
Smart Gardening Construction	900,000	916,000	Builds learning centers to showcase water-wise, native plants, xeriscape, and slow drip irrigation system.
Green Building Public Education	54,000	189,000	Educates the public and the industry about green building techniques.
Illegal Dumping Prevention	288,000	528,000	Educates residents to avoid illegally dumping materials and works with cities to clean up sites.
Information Verification and Review Services	461,000	503,000	Enforces Solid Waste Management Fee requirements.
LACoMAX and 888CleanLA Outreach	520,000	602,000	LACoMAX is an online exchange program for used or surplus items. 888CleanLA.com is a communication outlet for all environmental issues.
Solid Waste Facility Information System	288,000	289,000	Web application that provides geographical and historical information on existing, proposed, and closed landfills.
Recycled Tire Showcase Project	576,000	589,000	Educates the public about the practical applications of recycled waste tires.
Solid Waste Information Management System	288,000	289,000	Web application that manages disposal data collected from solid waste enterprises within the County.
Waste Tire Collection	527,000	794,000	Facilitates events for waste tire collection.
County Departmental Recycling	334,000	347,000	Reduces waste generation at county facilities located within cities.
Elementary School Education	673,000	800,000	Educates students (K-6) about environmental issues.
Secondary School Education/Hotline Coordination	1,278,000	1,341,000	Educates students (7-12) about environmental issues. Coordinates the (888) CLEAN LA environmental resources hotline.
Sub-total	**8,347,000**	**9,353,000**	
PLANNING/OTHER ACTIVITIES			
Assuring Disposal Capacity/Siting Element Revision Process	388,000	866,000	Revises the long-term planning documents.
Integrated Waste Management Task Force	470,000	495,000	Provides staffing and administrative resources to the main committee and 3 subcommittees.
Sub-total	**858,000**	**1,361,000**	
TOTAL PROJECTED COSTS	**19,336,000**	**22,202,000**	

ANALYSIS

This ordinance amends Title 20 of the Los Angeles County Code to increase the solid waste management fee to $1.50 per ton of solid waste for all facilities except inert waste disposal landfills, to add annual adjustments to the fee based on the Consumer Price Index, and to add several exemptions to the fee. The ordinance also adds and amends definitions and makes other technical changes.

RAYMOND G. FORTNER, JR.
County Counsel

By
JUDITH A. FRIES
Principal Deputy County Counsel
Public Works Division

JAF:gjv

11/20/07 (requested)

5/8/08 (revised)

ORDINANCE NO. _____

An ordinance amending Title 20 - Utilities of the Los Angeles County Code, to increase and modify the solid waste management fee, add and amend definitions, and make other technical changes.

The Board of Supervisors of the County of Los Angeles ordains as follows:

SECTION 1. Section 20.56.015 is hereby added to read as follows:

20.56.015 Conversion technology.

"Conversion technology" means the processing of solid waste through noncombustion thermal, chemical or biological processes, other than composting. "Conversion technology" does not include biomass conversion, as defined in Section 40106 of the Public Resources Code, or transformation.

SECTION 2. Section 20.56.020 is hereby amended to read as follows:

20.56.020 Disposal site.

"Disposal site" means ~~and is~~ the place, location, tract of land, area or premises in use, ~~or~~ intended to be used, or which has been used for the ~~landfill~~ disposal of solid waste. "Disposal site" includes a solid waste landfill, as defined in Section 40195.1 of the Public Resources Code, and includes a transformation facility.

SECTION 3. Section 20.56.060 is hereby amended to read as follows:

20.56.060 Solid waste or wastes.

"Solid waste" or "wastes" means ~~and includes~~ all putrescible and nonputrescible solid, ~~and~~ semisolid and liquid wastes, such as trash, refuse, garbage, rubbish, paper, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and

parts thereof, discarded home and industrial appliances, manure, vegetable or animal solid and semisolid wastes, and other discarded solid, ~~and~~ semisolid, and liquid wastes~~, and also includes liquid wastes disposed of in conjunction with solid wastes at solid waste transfer/processing stations or disposal sites, but excludes~~. "Solid waste" includes dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste. "Solid waste" does not include any of the following:

A. Liquid ~~S~~sewage collected and treated in a municipal or regional sewerage system; ~~or~~

B. Materials or substances ~~having commercial value which have been~~that are salvaged for reuse, recycling or resale~~.~~ and that are not disposed;

C. Hazardous waste as defined in Section 40141 of the Public Resources Code;

D. Radioactive waste regulated pursuant to the Radiation Control Law, Section 114960 et seq. of the Health and Safety Code; or

E. Medical waste that is regulated pursuant to the Medical Waste Management Act, Section 117600 et seq., of the Health and Safety Code, and that is not deemed to be solid waste pursuant to Section 40191(b)(3) of the Public Resources Code.

SECTION 4. Section 20.56.090 is hereby amended to read as follows:

20.56.090 Transfer/processing station or station.

"Transfer/processing station" or "station" means ~~and includes these facilities~~a facility utilized to receive solid wastes~~;~~ and 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 or from vehicles to containers for transport. "Transfer/processing station" or "station" does not include any facility the principal function of which is to receive, store, separate, convert or otherwise process, in accordance with state minimum standards, manure; nor does it include any facility, the principal function of which is to receive, store, convert or otherwise process wastes ~~which~~that have already been separated for reuse and are not intended for disposal.

SECTION 5. Section 20.56.091 is hereby added to read as follows:

20.56.091 Transformation.

"Transformation" means incineration. Transformation does not include conversion technology.

SECTION 6. Section 20.56.092 is hereby added to read as follows:

20.56.092 Transformation facility.

"Transformation facility" means a facility whose principal function is to receive and manage solid waste through a transformation process.

SECTION 7. Section 20.88.020 is hereby amended to read as follows:

20.88.020 Definitions.

The following definitions apply in the application of this chapter.

A. "Clean fill project" means a project using only gravel, rock, soil, and/or sand, whether processed or not, that has never been used in connection with any structure, road, parking lot, or similar use.

B. "Composting" means the aerobic or anaerobic biological decomposition of organic wastes.

C. "Director" means the director of public works for the county of Los Angeles or his/her authorized representative.

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

~~C~~D. "Dispose" means the final deposition onto land, into the atmosphere, or into the waters of the state.

~~D~~E. "Enforcement order" means an order issued by the director pursuant to Section 20.88.070A.

~~E~~F. "Hazardous waste" means all those wastes defined by Section 40141 of the Public Resources Code~~ and/or Section 25117 of the Health and Safety Code~~.

~~F~~G. "Hearing officer" means a person designated by the director as the hearing officer pursuant to Section 20.88.070C.2.

H. "Inert waste" means non-liquid solid waste that does not contain hazardous waste or soluble pollutants at concentrations in excess of applicable water quality objectives established by a California Regional Water Quality Control Board, does not contain more than 5 percent decomposable waste, and has not been treated in order to reduce pollutants. "Inert waste" includes materials such as crushed glass,

brick, ceramics, clay and clay products, fiberglass roofing shingles, slag, plaster, soil, concrete, asphalt, and other inert construction and demolition debris.

I. "Inert waste landfill" or "inert waste facility" means any facility that accepts only inert waste, including but not limited to an Engineered Fill Activity, Inert Debris Engineered Fill Operation, or Inert Debris Type A Disposal Facility, as defined in Title 14, Division 7, Chapter 3, Article 6, Section 17388 of the California Code of Regulations. "Inert waste landfill" or "inert waste facility" does not include a clean fill project.

~~G~~J. "Operator" means ~~the~~a person ~~or entity to whom permission is granted, pursuant to Chapter 20.72 of this code or Section 40000 et seq. of the Public Resources Code, to operate~~operating, within the county of Los Angeles, a ~~waste exporter,~~ disposal site, ~~transformation facility or~~ transfer/processing station, or waste exporter for solid waste or a combination of solid waste and hazardous waste. "Operator" includes the person to whom permission is granted, pursuant to Chapter 20.68 or Chapter 20.72 of this code or Section 40000 et seq. of the Public Resources Code, to operate a disposal site, transfer/processing station, or waste exporter.

H. "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. "Solid waste" does not include any of the following:~~

~~1. Hazardous waste as defined in Public Resources Code Section 40141.~~

~~2. Materials or substances that are salvaged for reuse, recycling or resale and that are not disposed.~~

~~3. Radioactive waste regulated pursuant to the Radiation Control Law, Section 114960 et seq. of the Health and Safety Code.~~

~~4. Medical waste which is regulated pursuant to the Medical Waste Management Act, section 117600 et seq. of the Health and Safety Code, and which is not deemed to be solid waste pursuant to Section 40191(b)(3) of the Public Resources Code.~~

~~I. "Transfer/processing station" means a facility utilized to receive solid wastes and to temporarily store, separate, convert, or otherwise process the materials in the solid wastes and/or to transfer the solid wastes directly from smaller to larger vehicles or railroad trains for transport.~~

~~J. "Transformation" means incineration. Transformation does not include composting, pyrolysis, distillation, gasification, or other biological conversion.~~

~~K. "Transformation facility" means a facility whose principal function is to receive and manage solid waste through the transformation process.~~

~~L~~K. "Waste exporter" means an ~~business~~entity that collects, transports, conveys, or hauls any solid waste from a location originating within the county of Los Angeles to a location outside ~~of~~ the county of Los Angeles.

SECTION 8. Section 20.88.030 is hereby amended to read as follows:

20.88.030 Payment of fee.

A. The operator of every disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter shall be liable for the payment of the applicable solid waste management fee. In the event any fees or administrative penalties have accrued, and remain unpaid, in whole or in part, at the time any operator transfers ownership of its business to a new operator, both the predecessor and successor operators shall be jointly and severally liable for the unpaid fees and any unpaid administrative penalties.

. . .

SECTION 9. Section 20.88.040 is hereby amended to read as follows:

20.88.040 Exemptions from fee.

The following activities and entities are exempt from the payment of the solid waste management fee:

A. Facilities or portions thereof, established for research purposes only, funded primarily by government grants;

B. Drilling-mud disposal sites for short-term use (less than one year) on a one-time-use per site basis where significant quantities of hazardous or toxic materials are not present in the mud, fluids or cuttings from drilling and associated operations, and if the sites have currently valid waste discharge requirements from a California Regional Water Quality Control Board;

C. Farm or ranch disposal sites for one- or two-family use;

D. Resource recovery facilities intended only for demonstration purposes, not to exceed two years, not operated for profit, and not accepting significant quantities of waste;

E. Transfer/processing stations are exempt from the payment of the solid waste management fee for any:

1. ~~s~~Solid waste received at ~~a~~the transfer/processing station for transportation to disposal sites ~~or transformation facilities~~ located within the county of Los Angeles. To qualify for the exemption, transfer/processing stations operators must notify the director in writing of the claim of exemption. The notice must be in the form prescribed by the director, must be submitted for each calendar month for which the exemption is sought, and must be signed by an authorized officer or principal of the operator of the transfer/processing station who must attest under penalty of perjury to the facts on which the exemption is based, including a statement that the solid waste which is the subject of the exemption has not been transported and/or disposed outside ~~of~~ the county of Los Angeles; and

2. Solid waste received at the transfer/processing station for transportation outside the county of Los Angeles and subsequently recycled or otherwise diverted from disposal. To qualify for the exemption, transfer/processing station operators must notify the director in writing of the claim of exemption. The notice must be in the form prescribed by the director, must be submitted for each calendar month for which the exemption is sought, and must be signed by an authorized officer or principal of the operator of the

transfer/processing station who must attest under penalty of perjury to the facts on which the exemption is based, including a statement that the solid waste which is the subject of the exemption has been recycled or otherwise diverted from disposal. The notice must be accompanied by receipts or other documentation from each facility accepting the solid waste for diversion, which documentation substantiates to the satisfaction of the director that the waste was recycled or otherwise diverted from disposal;

F. Industrial disposal sites located on the producer's property to be used for the exclusive disposal of insignificant quantities of the owner's wastes. These wastes must be nonhazardous, and their disposal shall not pose a threat to the public health, safety, or the environment. To qualify for the exemption, an industrial disposal site must not be subject to waste discharge requirements prescribed pursuant to Section 13263 of the Water Code and the industrial disposal site must not be required to obtain a solid waste facilities permit pursuant to Section 44000 et seq. of the Public Resources Code;

G. Evaporation ponds for disposing of salts from oil and geothermal drilling operations, if the ponds have been prescribed waste discharge requirements pursuant to Section 13263 of the Water Code;

H. The use of soil or other material for final cover in an inert waste landfill if approved by the director pursuant to standards, guidelines or criteria established under Section 20.88.100. The exemption may be approved for no more than 3 feet of final cover materials unless a final cover of more than 3 feet is required by applicable federal, state, or local law or regulation. In no case shall the exemption be approved for final

cover exceeding 10 feet in depth or 10 percent of the total waste material deposited at the site throughout the site's life, whichever is less.

I. The use of soil for daily, intermediate, and final cover in a solid waste landfill other than an inert waste landfill. The use of material other than soil is exempt from the payment of the solid waste management fee if approved by the director pursuant to standards, guidelines or criteria established under Section 20.88.100.

J. Conversion technology facilities;

K. Clean fill projects;

L. Composting activities;

~~H~~M. Disposal of ash residuals produced at a transformation facility.

SECTION 10. Section 20.88.050 is hereby amended to read as follows:

20.88.050 Calculation of solid waste management fee.

A. The solid waste management fee shall be calculated for each disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter based upon the tons or cubic yards of solid waste received, collected, conveyed, or hauled during a calendar month.

B. Except as set forth below, the solid waste management fee shall be $0.86 per ton of solid waste. In situations where the director determines that solid waste cannot be measured in tons, solid waste shall be measured in cubic yards and the solid waste management fee shall be $0.52 per cubic yard. (This subsection B shall not be effective after December 31, 2008.)

B. For all inert waste landfills, the solid waste management fee shall be $0.52 per cubic yard of inert waste. For all other disposal sites, transfer processing stations, and waste exporters, the solid waste management fee shall be $1.50 per ton of solid waste. (This subsection B shall become effective on January 1, 2009.)

C. Beginning on July 1, 2010, and thereafter on each succeeding July 1, the amount of each fee in this section shall be adjusted by the increase, if any, in the Consumer Price Index (CPI) for all urban consumers in the Los Angeles, Anaheim, and Riverside areas, as published by the United States Government Bureau of Labor Statistics, from April of the previous calendar year through March of the current calendar year, and the adjusted fee shall be rounded to the nearest cent.

SECTION 11. Section 20.88.060 is hereby amended to read as follows:

20.88.060 Record retention and access to records.

A. Each operator shall maintain records, information, and documentation that substantiate the tons or cubic yards of solid waste received, collected, recycled, reused, conveyed, or hauled during each calendar month at each of the operator's disposal sites, ~~transformation facilities,~~ transfer/processing stations, and waste exporter. The records, information, and documentation shall include the procedures the operator used to determine and measure the quantity of such solid waste. The operator shall maintain such records, information, and documentation for a period of three years from the date such solid waste was received, collected, recycled, reused, conveyed, or hauled by the operator.

B. Upon receipt of a minimum of three business days' written notice from the

director, an operator shall provide the director with access for inspection and copying of all records, information, or documentation maintained pursuant to Section 20.88.060A.

SECTION 12. Section 20.88.070 is hereby amended to read as follows:

20.88.070 Enforcement order, administrative penalty, and appeals.

A. Enforcement Order.

1. The director shall have the authority to issue an enforcement order for any violation of any provision of this chapter. The enforcement order shall provide notice of the violation, the applicable administrative penalties, and the availability of an administrative appeal.

2. Service of any enforcement order shall be upon the person or entity in real or apparent charge or control of the involved disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter. Service shall be by personal delivery or by registered or certified mail, return receipt requested, at the director's election. In the event, after reasonable effort, the director is unable to serve the enforcement order or decision of the hearing officer as specified above, service shall be accomplished by posting a copy of the enforcement order or decision of the hearing officer on the premises of the disposal site, ~~transformation facility,~~ transfer/processing station, or waste exporter. The date of service is deemed to be the date of mailing, personal delivery, or posting, as applicable.

3. The director's issuance of an enforcement order shall be final unless an appeal from the order has been filed as provided in Section 22.88.070.C.

. . .

SECTION 13. Section 20.88.100 is hereby added to read as follows:

20.88.100 Standards, guidelines and criteria.

A. The director may establish standards, guidelines and criteria consistent with this chapter for approval of an exemption from the payment of the solid waste management fee under Section 20.88.040.H for the use of soil or other materials for final cover in an inert waste landfill.

B. The director may establish standards, guidelines and criteria consistent with this chapter for approval of an exemption from the payment of the solid waste management fee under Section 20.88.040.I for the use of materials other than soil for daily, intermediate, and final cover in a solid waste landfill other than an inert waste landfill.

[2056JFCC]