

EXHIBIT B - ATTACHMENT 1

**SANTA BARBARA COUNTY
PUBLIC WORKS DEPARTMENT
RESOURCE RECOVERY & WASTE MANAGEMENT DIVISION
RULES AND REGULATIONS
GOVERNING CHAPTER 17 OF THE COUNTY CODE**

CHAPTER 1-GENERAL PROVISIONS

1-100 Definitions

1-101. For the purposes of these Rules and Regulations, the following words and phrases shall have the meaning set forth herein, and words and phrases not ascribed a meaning herein shall have the meaning as set forth in Santa Barbara County Code, Chapter 17, as it may be amended from time to time:

"Applicant" means the person applying on behalf of a solid waste enterprise to the County of Santa Barbara for a permit to provide unscheduled solid waste handling services.

"County Code" means the Santa Barbara County Code.

"Service or Serviced" means the collection and transportation of solid waste to recycling and disposal facilities by a permittee during the provision of unscheduled solid waste handling services.

CHAPTER 2-REGULAR SOLID WASTE HANDLING SERVICES

2-100 Commercial Recycling Program Protocols

2-101 Compliance Protocol

The Commercial Recycling Program Protocols (hereinafter "Protocol" or "Protocols") shall be applicable to and mandatory for all "persons" and "responsible parties" associated with "commercial premises" (hereinafter "Business" or "Businesses") as these terms are defined in County Code Chapter 17, excluding public and private educational institutions (i.e., schools). A Business will be in compliance with the Protocol if the Business subscribes to the collection services of an authorized collector, or the Business chooses to donate or sell its recyclables to a commercial recycler that does not charge for its service, or the Business provides its own collection and transportation of recyclables services (self-haul to drop-off facilities). Otherwise, the Business must obtain a waiver or exemption as described in Section 2-102 to be in compliance with the Protocol.

The key component to the recyclables disposal ban is compliance by Business. The following describes the steps for achieving compliance.

STEP 1 (Visual inspection schedule): Each Business trash and recycling container will be checked by the route driver bi-monthly for the grace period following implementation of the

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program. The grace period will last from September 1, 2003 through February 29, 2004. Following the grace period, Businesses will be checked semi-annually for compliance. To ensure consistent inspections, a driver will be given a list of Businesses that must be checked for that day. Results of the visual inspections will be written and submitted to the office at the end of the day.

STEP 2 (Visual inspection process): If recyclables are found in the trash container, the driver will document responses to the following questions:

- a. Does the Business have recycling containers?
- b. Are the containers being used?
- c. Does the Business need more recycling containers?

If the answer to question “a” is no, the driver will inform office staff that the Business is in non-compliance. Office staff will make a follow-up phone call to the Business explaining the requirements of the Protocols, options available, and repercussions of non-compliance.

If the answer to question “b” is no, the driver will inform office staff that the Business needs to be educated on the appropriate use of the containers. If the Business chooses to not use the containers, they will be informed of the non-compliance fee or rate.

If Business requests an exemption from the Protocols, see Exemption Protocol below.

If the answer to question “c” is yes, the driver will inform office staff that the Business requires additional recycling containers.

STEP 3 (County participation): County staff will either ride with drivers or conduct separate audits of each Business annually to ensure compliance. County staff will periodically review materials being tipped at area landfills to gage the quantity of recyclables that continue to be buried from the commercial sector and identify any particular routes that appear to be in non-compliance.

2-102 Exemption Protocol

The following outlines the procedure a Business shall use to obtain a waiver or exemption from the requirements of the Protocols

STEP 1: Business expresses an interest in obtaining a waiver or being exempt from participating in the program.

STEP 2: Hauler gives Business a form developed by the County formally requesting an exemption from the program. For purposes of this section, the Business will have the burden to produce evidence sufficient to allow the County to make the determination that the Business is exempt from the requirements of the Protocol. Business submits waiver/exemption request form to the County. The requirements of the Protocol shall not be applicable to and mandatory for a Business if the County determines that one or both of the following exists:

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- a. the Business is exempted according to County Code 17-6, and the Director, or his or her designee, after receiving a written application from the Business, finds that the requirements of the Protocol are infeasible or unnecessary to maintain the required level of service, or;
- b. the Business would suffer undue or unreasonable hardship by participating in the Protocol.

STEP 3: Hauler and County make a site visit.

STEP 4: County determines if exemption is granted or not. County shall notify Business by mail or personal service by a public officer of this determination (hereinafter, “Notice of Determination”).

- a. If the County determines Business is not entitled to the waiver or exemption, Business may appeal by requesting an administrative review hearing of the adverse determination within ten (10) working days of personal service or the date of the mailing of the Notice of Determination.
- b. The Notice of Determination shall contain a statement that if the Business fails to request an appeal of an adverse determination, the Notice of Determination shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure Section 1094.5.
- c. An appeal of the Notice of Determination shall be heard by the Director of Public Works (or his or her designee) as the hearing examiner. The administrative appeal hearing shall be set no sooner than twenty (20) and no later than forty-five (45) days following a request for an appeal hearing. Notice of the appeal hearing shall be mailed at least twelve (12) calendar days before the date set for the hearing. Failure to appear timely will cause the Notice of Determination to become a final order or decision.
- d. After the hearing, the hearing examiner shall uphold, vacate or modify the initial determination of the County. The decision of the hearing examiner shall be deemed a final administrative order or decision for purposes of Code of Civil Procedure 1094.5. The hearing examiner’s decision shall be deemed served within two days after the date it was mailed to the address provided by the Business.

2-103 Non-Compliance Fee or Non-Compliance Collection Rate for Non-Compliance

The following explains the process for collecting the Non-Compliance Fee or the Refuse Collection Rate for Non-Compliance with the Commercial Recycling Program, how the fee or rate is imposed and collected, and the use of the fee or rate funds.

STEP 1 (Levying fee or rate): If a Business refuses to recycle or receives recycling containers but does not use them appropriately (high levels of contamination or trash), and is not eligible for an exemption, the Business will pay a Non-Compliance Fee or a Refuse Collection Rate for Non-Compliance with the Commercial Recycling Program. This fee or rate will be included in the Business trash bill and will be 20% of the Business’s trash collection rate (not including bin rentals). Prior to paying the non-compliance fee or rate, a Business:

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- a. Will be granted a six-month grace period (September 1, 2003 through February 29, 2004),
- b. Will be contacted via a letter that introduced the program, and
- c. Will have received follow-up telephone calls from the haulers following visual inspections of their containers.

In addition, haulers will advise County staff of non-complying Businesses before levying the fee or rate. County staff will contact the non-compliant Businesses a final time to ensure that they are aware of the Protocol and the repercussions of not participating.

STEP 2 (Fee or Rate distribution): Each month, haulers will submit a report identifying Businesses that are being assessed the non-compliance fee or rate and shall forward all fee or rate monies to the County. The County will expend funds generated by the fee or rate on recycling education and promotion programs.

2-104 Contamination Protocol

A significant increase in the contamination of recyclables being collected can negatively impact the quality of all materials collected, increase the cost for processing, and decrease the revenues associated with the sale of the materials. Because of these significant impacts, a protocol for minimizing contamination is very important.

First, no level of putrescibles will be accepted. Second, there can be no more than 25% overall contamination of the commingled recyclables collected. If putrescibles or more than 25% contamination are found in the recyclables collection containers, the Business will be notified immediately and educational materials will be delivered regarding the appropriate use of the containers. Large stickers will be placed on each container emphasizing that they are for recyclables collection only. If a Business continues to contaminate their containers, the containers will be pulled and the non-compliance fee or rate will be assessed on the Business.

CHAPTER 3-UNSCHEDULED SOLID WASTE HANDLING SERVICES

3-100. Grant and Denial of a Permit

3-101. All persons interested in providing unscheduled solid waste handling services who comply with the Application requirements of Article III, Section 17-44(d) of the County Code are eligible to apply for a permit. Permit applications shall be available through the Resource Recovery & Waste Management Division, and once completed, shall be filed with the Resource Recovery & Waste Management Division. There will be up to 10 Unscheduled Solid Waste Handling permits issued by the Director of Public Works unless the Director determines a community need for additional permits based on public demand for unscheduled solid waste handling services which are not being adequately supplied or capable of being supplied by the existing permittees.

Holders of Unscheduled Solid Waste Handling Permits previous to June 30, 2008 will automatically be granted a renewed permit valid for five years upon satisfactory compliance of

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the law and receipt of an acceptable written application for a permit within 30 days of its expiration.

3-102. Any person or solid waste enterprise receiving payment for providing unscheduled solid waste handling services must obtain a permit, unless such services are exempt pursuant to Article III, Section 17-44(k) of the County Code. Payment of services includes any type or manner of payment by a person or responsible party to a person or solid waste enterprise providing unscheduled solid waste handling services, including but not limited to, payment for the collection or transportation of solid waste, payment for the rent or lease of a container, or payment for the cost of disposal at an authorized disposal site. In addition, any person or responsible party who receives a discount of, or a reduction in, the collection service rate or who pays a person or solid waste enterprise a consulting charge, fee or other tangible consideration shall be considered to be making a payment for purposes of this section.

3-103. Upon receipt of a completed application for a permit to provide unscheduled solid waste handling services, the Director shall determine if the Applicant meets all the requirements of Chapter 17, the Rules and Regulations, and all applicable State and Federal laws and regulations. The Applicant shall be notified in writing of the Director's decision to issue or not to issue the permit within thirty (30) days from the receipt of a complete application.

~~1 Prior to June 30, 1997 and at least once prior to the end of every other fiscal year thereafter, the Director shall recommend to the Board whether there is a need and a necessity for additional unscheduled solid waste handling services for the following two fiscal years or until June 30, 1997. When making the recommendation, the Director may consider all relevant evidence, including but not limited to, the potential of adverse traffic, diversion or other impacts which the issuance of additional permits might create, the interest of the consumers and existing permittees, and whether public demand exists for unscheduled solid waste handling services which are not then being adequately supplied or capable of being supplied by existing permittees. Upon review of the Director's recommendation the Board shall, by resolution, make a determination whether there is or is not, a need and necessity for additional unscheduled solid waste handling services for the following two fiscal years or until June 30, 1997. When making this determination, the Board may consider all relevant evidence, including but not limited to, the potential of adverse traffic, diversion or other impacts which the issuance of additional permits might create, the interest of the consumers and existing permittees, and whether public demand exists for unscheduled solid waste handling services which are not then being adequately supplied or capable of being supplied by existing permittees. If the Board determines there is not a need and a necessity for additional unscheduled solid waste hauling services for the following two fiscal years or until June 30, 1997, the Director may deny the issuance of additional permits on the basis of this determination. If the Board determines there is a need for additional unscheduled solid waste handling services for the following two years, or until June 30, 1997, the Director may approve the issuance of additional permits on the basis of this determination, unless the Director determines that the issuance of a permit to an applicant is detrimental to the public, health, safety or welfare in which case the Director may deny the issuance of a permit.~~

~~2 A solid waste enterprise lawfully providing unscheduled solid waste handling services pursuant to Section 17-47 of the County Code as of April 27, 1995, shall be exempt from the provisions of section 3-103.1.~~

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3-104. If the Director determines that a permit will not be issued, the Applicant shall be notified in writing of the Director's decision within 30 (thirty) days from the receipt of a complete application. The notification shall state the reasons for denial. The Applicant may, within 15 days of the date of the notification, request in writing to the Clerk of the Board that a hearing be held pursuant to Section 17-44(e)(2) of the County Code. After the hearing and consideration of all relevant evidence, including the Director's recommendation, the Board shall do either of the following:

.1 Grant the permit to provide unscheduled solid waste handling services; or,

.2 Deny the grant of a permit to provide unscheduled services pursuant to Section 17-44(e) (2) of the County Code. The reasons for denial shall be specified in writing.

3-105. The term of a permit to provide unscheduled solid waste handling services shall be for a period of 5 (five) years from the date of issue, unless otherwise conditioned by the Board pursuant to Section 3-400.

3-106. By signing the permit in the space provided for signature, the Applicant shall be deemed to have accepted all of the terms and conditions specified in the permit.

3-107. No permit granted pursuant to these Rules and Regulations or Chapter 17 of the County Code shall be assignable or transferable, either voluntarily or by operation of law, without the written permission of the Board of Supervisors.

3-108. The accounting of a permittee shall be conducted in such a way to identify the assets, liabilities, revenues, expenses and net worth of the permitted unscheduled solid waste enterprise operating in the County. The accounting shall not be combined, consolidated or in any way incorporated with the accounting of any other entity owned or operated by the permittee. The permittee may be required to provide the Resource Recovery & Waste Management Division an annual notarized statement of the permittee's manager, or other responsible officer of the permittee, showing in detail the gross revenues arising from operations pursuant to the permit for the previous year. A permittee shall not be required to establish a separate legal business entity in order to comply with the accounting requirements of Chapter 17.

3-109. A permittee shall at all times comply with Section 17-20 of the County Code, pertaining to bonds, indemnification, and insurance. Once the determination has been made by the Director or the Board of Supervisors to issue a permit, a permittee must provide written documentation of compliance with this section prior to the actual issuance of the permit. No permit shall be valid until such written documentation has been delivered to, and approved by, the Resource Recovery & Waste Management Division.

3-110. Unscheduled solid waste handling services shall only be provided through the use of a roll-off container. Fifty (50) percent of all waste collected by an unscheduled solid waste handling permit holder in the unincorporated area of the County must be diverted from burial in a landfill and recycled. This measurement will be determined on an annual basis as prescribed in Section 3-308. An exemption to this requirement may be made by the Resource Recovery &

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Waste Management Division if the permittee can demonstrate that the material collected was not recyclable.

3-200. Fees

3-201. A permittee shall pay a fee in the amount to be determined by Resource Recovery & Waste Management Division per container per customer as stated in the release of the annual rates. The monthly fee must be payable to the Santa Barbara County Resource Recovery & Waste Management Division by the 15th of each month immediately following the billing period. All fees received pursuant to this section shall be deposited to the solid waste enterprise fund or to such other fund as the board may designate. (Ord. No. 4188, § 2)

3-202. Accompanying payment of permit fees, the permittee must provide a monthly submittal to the Resource Recovery & Waste Management Division identifying the date of service, name of customer, drop location, and total revenue from each customer including bin delivery, bin rental, and bin transportation charges. If a customer is serviced more than once in a calendar month, this must be indicated by date on the submittal. If a question arises concerning the accuracy of the information contained in the monthly submittals, the Resource Recovery & Waste Management Division shall be allowed access to the permittee's financial records where costs for delivery, rental, transportation, and disposal are listed separately for unscheduled service. Unless disclosure of a permittee's financial records is otherwise required by law, this monthly submittal will not be available for public inspection or review and is to be used only by the Resource Recovery & Waste Management Division to implement this section.

3-203. The delinquent payment or nonpayment of the fees required by this section from a permittee shall be prima facie evidence that the permittee is operating in violation of these Rules and Regulations and Chapter 17 of the County Code. For purposes of this section, a permittee shall be delinquent if the fees are not paid in full within 30 (thirty) days from its designated due date.

3-204. If necessary, fees may be adjusted each fiscal year by the Board subject to the limitations of Section 17-44(g) of the County Code.

3-300. Enforcement Program

3-301. In the event of an alleged violation of any provision of Chapter 17 of the County Code or these Rules and Regulations, the Resource Recovery & Waste Management Division will attempt to obtain the voluntary compliance of a permittee. Absent an immediate threat to the public health, safety or the environment, the Resource Recovery & Waste Management Division will advise the permittee in writing of the alleged violation and shall request the permittee to correct the alleged violation. The permittee shall have 48 (forty-eight) hours to correct an alleged violation unless the alleged violation is determined by the Director to pose an immediate threat to public health, safety or the environment, in which case the permittee shall be required to correct the alleged violation immediately.

3-302. In the event the permittee is unable to correct the alleged violation within the 48 (forty-eight) hour period, the Director may extend in writing the time for compliance up to an

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additional 30 (thirty) days. The Director shall have the discretion whether to extend the time for compliance, but in no event shall the time for compliance be extended if the Director determines the permittee has willfully refused to correct the alleged violation.

3-303. In the event the permittee is unable or unwilling to correct the alleged violation during the 48 (forty-eight) hour period or any extension thereof, the Director shall have the discretion to pursue any and all legal remedies to obtain the permittee's compliance with Chapter 17 and these Rules & Regulations including the suspension, amendment or revocation of the Unscheduled Solid Waste Handling Permit as described in Section 3-400.

3-304. Pursuant to Section 3-400, the number and location of the zones in which a permittee can operate may be designated or restricted, or the permit may be suspended, amended or revoked, if the Board finds that the provision of unscheduled solid waste handling services is being used as a substitute for or in lieu of regular solid waste handling services being provided by a collector(s) franchised or licensed by the County to operate within a particular zone(s). For purposes of this section, it is prima facie evidence that unscheduled solid waste handling services are being used as a substitute for or in lieu of regular solid waste handling services if one or more of the following conditions exist:

.1 A responsible party who is being provided with regular solid waste handling services cancels such services and after such cancellation is serviced more than 20 (twenty) times in a calendar year by a solid waste enterprise(s) permitted to provide unscheduled solid waste handling services in the County.

.2 A responsible party who is not being provided with regular solid waste handling services is serviced more than 20 (twenty) times in a calendar year by a solid waste enterprise(s) permitted to provide unscheduled solid waste handling services in the County.

3-305. Exemptions to the restrictions of Sections 3-304.1 and 3-304.2 may be granted by the Director upon written request by the permittee. The Director must determine that the exemption will not result in the unscheduled services being used as a substitute for or in lieu of regular solid waste handling services. The written request for an exemption shall include the following information: the name of the customer; the location of the container(s); the type of material to be collected or transported in the container(s); the estimated duration of the unscheduled services, and; the estimated number of times the container(s) will be serviced during the extension. The written request for an exemption shall be submitted to the Resource Recovery & Waste Management Division. The Director will inform the permittee whether the exemption is approved within 15 (fifteen) days of receipt of the request for an exemption. The intent of this Section is to protect a collector who has been granted an exclusive franchise or license to provide regular solid waste handling services and not to discourage competition among those authorized to provide unscheduled solid waste handling services.

3-306. Enforcement of Sections 3-304.1 and 3-304.2 will be based, in part, upon the written or oral complaint of the franchised or licensed solid waste collector entitled to provide exclusive regular solid waste handling services within a particular zone to the Resource Recovery & Waste Management Division unless the violation of either of these sections is

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otherwise brought to the attention of the Director who has the discretion to enforce these rules and regulations.

3-307. Nothing in these Rules and Regulations shall limit in any way the authority of the Director or his or her designee, to issue citations for any violation of Chapter 17 of the County Code pursuant to Section 1-15 of the County Code.

3-308. On an annual basis, all Unscheduled Solid Waste Handling permittees shall submit a summary report that lists all landfill tipping receipts related to all unscheduled hauling services that requires a permit in the unincorporated area of Santa Barbara County. Landfill tipping fees would include weight tickets associated with material to be landfilled and not preprocessed prior to disposal. This report shall be used to determine compliance with the requirement of all unscheduled haulers to divert 50% of all collected waste that requires a permit for the unincorporated area of Santa Barbara County. The deadline for this annual report will be March 1 of every year containing all data of the previous calendar year. The first annual report will be due March 31, 2009 and will provide a summary of all related tipping fees for the calendar year of 2008.

3-400. Suspension, Amendment, or Revocation of a Permit

3-401. The Director may recommend to the Board of Supervisors the suspension, amendment or revocation of a permit pursuant to Sections 17-44(e) and (f) of the County Code. The permittee shall be notified in writing of the Director's recommendation to suspend, amend, or revoke a permit. The notification shall state that the proposed action will be effective 15 (fifteen) days after the date of notification, unless the permittee requests in writing to the Clerk of the Board that a hearing be held pursuant to Section 17-44(e)(2). If the written request for a hearing is timely received by the Clerk of the Board, the proposed action shall be stayed until the conclusion of the hearing by the Board of Supervisors.

3-402. In making the determination to recommend to the Board the suspension, amendment, or revocation of a permit, the Director may consider all relevant evidence, including, but not limited to, the permittee's failure to recycle at least 50% of all handled solid waste, the permittee's failure to pay the fees required hereunder within 30 (thirty) days of the due date, the permittee's incursion of late fees pursuant to Section 17-59 of the County Code, and the degree of compliance or noncompliance by the permittee with the provisions of these Rules and Regulations and Chapter 17 of the County Code.

3-403. At the hearing, the Board may consider all relevant evidence, including, but not limited to, the recommendation of the Director, the permittee's failure to recycle at least 50% of all handled solid waste, the permittee's failure to pay the fees required hereunder within 30 (thirty) days of the due date, the permittee's incursion of late fees pursuant to Section 17-59 of the County Code, and the degree of compliance or noncompliance by the permittee with the provisions of these Rules and Regulations and Chapter 17 of the County Code. After the hearing, the permit may be suspended, amended, or revoked. If the permit is suspended or amended, the Board may grant a permit to provide unscheduled solid waste handling services subject to conditions which will bring the solid waste enterprise into compliance with the standards of Chapter 17 of the County Code, these Rules and Regulations, or applicable State or Federal laws

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or regulations. The conditions shall be specified in writing, and may include conditions which mitigate against potential adverse public safety, health, and welfare impacts. The Board may also limit the term of the permit notwithstanding any other law or regulation to the contrary.

CHAPTER 4-FEES FOR USE OF COUNTY OWNED AND/OR
OPERATED SOLID WASTE FACILITIES

(Reserved)

CHAPTER 5-ABATEMENT OF NUISANCE

(Reserved)

CHAPTER 6-ENFORCEMENT AND PENALTIES

(Reserved)