

PUBLIC HEARING
BEFORE THE
CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Public Hearing in re:)

PROPOSED AMENDMENT TO TITLE 14,)
CALIFORNIA CODE OF REGULATIONS,)
DIVISION 7, CHAPTER 9 BY ADOPTING)
NEW SECTIONS 18752 THROUGH)
18754.5, AND REVISING SECTIONS)
18730 THROUGH 18748.)

COPY

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD
BOARD ROOM
8800 CAL CENTER DRIVE
SACRAMENTO, CALIFORNIA

FRIDAY, NOVEMBER 19, 1993

9:40 A.M.

Nadine J. Parks
Shorthand Reporter

A P P E A R A N C E S

Dianne Range, Hearing Officer
Manager
Office of Local Assistance

John Blue
Office of Local Assistance

Steve DeMello
Office of Local Assistance

Traci Perry
Office of Local Assistance

--o0o--

I N D E X

	<u>PAGE</u>
Proceedings	1
Opening Statement by Hearing Officer Range	1
Summary of new regulation for preparation of content of the nondisposal facility element, Article 6.4:	
Traci Perry Office of Local Assistance	4
Summary of Proposed Revisions to Article 6.2:	
Steve DeMello Office of Local Assistance	4
Summary of Proposed Revisions to Article 7.0:	
John Blue Office of Local Assistance	8
PUBLIC COMMENTS:	
Frank Muratore Public Works Department County of Merced	9
Chuck White WMX Technologies	11
Questions/Comments	15
Denise Delmatier The Gualco Group	16
Adjournment	17
Certificate of Reporter	18

P R O C E E D I N G S

--o0o--

1
2
3 HEARING OFFICER RANGE: Good morning, and welcome
4 to today's public hearing. For the record, my name is
5 Dianne Range. I'm with the California Integrated Waste
6 Management Board. I'll be the Hearing Officer for today's
7 public hearing.

8 This public hearing is being set pursuant to
9 requirements in Assembly Bill 440. Under AB 440, the Board
10 is required to adopt and -- to prepare and adopt emergency
11 regulations to implement the provisions of Assembly Bill
12 2494, Assembly Bill 3001, and AB 440, governing the
13 preparation and submission of city, county, and regional
14 agency source reduction and recycling elements and
15 nondisposal facility elements. These are to be adopted by
16 the Board by December 31st, 1993.

17 We have a sign-up sheet in the back of the room
18 for persons wishing to indicate their presence at this
19 hearing. Please indicate on the sign-up sheet if you wish
20 to testify at today's public hearing.

21 Testimony will be heard in the order of
22 registration. Any other person wishing to speak will be
23 afforded the opportunity after the registered witnesses have
24 had an opportunity themselves. And after the testimony, we
25 will be also taking questions as well.

1 As noticed, this is the time and the place set for
2 the presentation of oral and written statements on three
3 regulations: the proposed new regulations regarding the
4 preparation of the content of city and county nondisposal
5 facility elements, or NDFEs, Title 14, California Code of
6 Regulations, Division 7, Chapter 9, Article 6.4; the
7 proposed revised regulations regarding the preparation
8 of the content of city and county source reduction and
9 recycling elements, SRREs, Title 14, California Code of
10 Regulations, Division 7, Chapter 9, Article 6.2; and the
11 proposed revised regulations regarding the procedures for
12 preparing and revising city, regional agency, and county
13 SRREs, household hazardous waste elements, and city and
14 county NDFEs.

15 It is important to note that with the passage of
16 AB 2494 and AB 440, cities and counties are not required to
17 revise final SRREs to comply with the provisions in the new
18 laws prior to their submittal to the Board for approval.

19 The proposed NDFE regulations, Article 6.4, were
20 noticed in the California Regulatory Notice Register in
21 July, 1993. The proposed revised regulations for Article
22 6.2 and 7.0 were noticed in the California Regulatory Notice
23 Register in October, 1993.

24 As I mentioned earlier, the purpose of today's
25 hearing is to accept public comment on these emergency

1 regulations. We ask that you restrict your comments to
2 changes to the regulations only, with the exception of the
3 new regulation for preparing the content of the NDFEs,
4 Article 6.4.

5 Persons wishing to submit written comments may do
6 so by delivering their comments directly to me. No comments
7 will be accepted after today at 5:00 p.m., November 19th.
8 The entire proceedings will be recorded by a court reporter
9 and also by audio recorder. The transcript, as well as any
10 exhibits or evidence presented at this hearing, will be
11 incorporated into the official record.

12 Witnesses presenting testimony at the hearing will
13 not be sworn in, nor will we engage in cross-examination of
14 the witnesses. Comments made today will be reviewed and
15 considered for incorporation into the regulations if deemed
16 appropriate.

17 Additional copies of the proposed regulations can
18 be found at the table in the back of the room. To ensure
19 that your comments are entered into the record, we ask the
20 speakers to step up to the podium and speak into the
21 microphone when called.

22 Please begin by clearly stating your name and who
23 you represent. Also, if you have questions, we ask that you
24 step up to the podium as well.

25 In commenting, please indicate the proposed

1 regulatory section that each comment addresses.

2 Today, we will begin by giving a brief summary of
3 each regulation before accepting public comment. Traci
4 Perry of the Office of Local Assistance will begin with a
5 brief summary of the proposed new regulation for preparing
6 of content of the nondisposal facility element, Article 6.4.
7 Traci?

8 MS. PERRY: Thank you. Traci Perry of the Office
9 of Local Assistance.

10 Article 6.4, new regulations, Assembly 3001
11 requires every city and county to prepare and adopt a
12 nondisposal facility element.

13 A nondisposal facility is any solid waste facility
14 required to obtain a solid waste facility's permit, other
15 than a transformation or disposal facility.

16 A nondisposal facility element describes and
17 identifies existing, expansion of existing, and new solid
18 waste facilities that a jurisdiction will utilize to reach
19 the mandated goals.

20 HEARING OFFICER RANGE: Now, Steve DeMello of the
21 Office of Local Assistance will give a brief summary of the
22 proposed changes to revised regulation for preparing the
23 content of the SRRE, Article 6.2. Steve?

24 MR. DE MELLO: Good morning. My name is Steve
25 DeMello with the Office of Local Assistance.

1 The proposed revisions to the California Code of
2 Regulations, which I will highlight today, are Title 14,
3 Chapter 9, Article 6.2.

4 This is specific to Sections 18730 through 18748.
5 This is the scope and content of the source
6 reduction/recycling element. The proposed revisions are
7 intended to facilitate implementation of the California
8 Integrated Waste Management Act, as amended by Assembly
9 Bills 2494, 3001, and AB 440.

10 You should each have a copy of the proposed
11 revisions. If you don't, they're on the back of the table.
12 There's also available, as a handout, a draft summary of
13 proposed revisions to Article 6.2, dated November 15th,
14 1993.

15 I'd like to reiterate that, pursuant to AB 440,
16 the source reduction and recycling element and the
17 nondisposal facility element related regulations are deemed
18 to be emergency regulations.

19 However, the proposed regulatory changes to
20 Article 6.2 do not require jurisdictions to revise their
21 currently adopted SRRE prior to the requisite submittal date
22 set forth in the Public Resources Code.

23 These emergency regulations are to be adopted by
24 the California Integrated Waste Management board by no later
25 than December 31st, 1993, and the regulations will be in

1 effect for a period of three years.

2 There are two categories of proposed revisions to
3 Article 6.2. The first category are those revisions to
4 facilitate implementation of the Act, as amended by Assembly
5 Bills 2494, 3001, and AB 440.

6 They address the new disposal-based accounting
7 system. They differentiate between the content of the
8 initial and subsequent SRRE for baseline calculation and
9 diversion program reporting.

10 They provide for regional agency SRRE development.
11 The definition of jurisdiction has been expanded to include
12 regional agency.

13 The proposed revisions streamline the diversion
14 program monitoring and reporting requirements. Under the
15 proposed revisions, only the jurisdiction funded or operated
16 composting or recycling programs need be monitored and
17 reported in the SRRE.

18 The proposed revisions also identify that the
19 jurisdiction must address in the SRRE whether they are or
20 intend to apply for designation as a California Integrated
21 Waste Management Board Recycling Market Development Zone.

22 The revisions address -- sludge diversion may
23 count toward the mandated diversion goals. I refer you to
24 Article 7.0, Section 18776 for guidance on this matter. And
25 the proposed revisions identify that the nondisposal

1 facility element shall be appended to the initial SRRE and
2 incorporated into the SRRE at the time of the five-year
3 revision of the SRRE.

4 A second category of proposed changes to Article
5 6.2 are to consolidate the SRRE component information to
6 reduce redundancy.

7 For example, under the existing regulations,
8 information on program costs and funding sources must be
9 included in each of the waste diversion components of the
10 SRRE.

11 With the proposed revisions, the program costs and
12 funding source information for each of the SRRE components
13 may be consolidated into and addressed in the funding
14 component.

15 The revisions also recognize, as a criteria for
16 targeting source reduction activities, those waste types
17 which may cause environmental problems when disposed -- for
18 example, lead wine bottle seals and coloration with high
19 metal content.

20 The revisions also reflect changes in regulatory
21 agency responsibilities; for example, the Department of
22 Toxic Substance Control is now authorized to perform special
23 waste regulation duties that were performed by the
24 Department of Health Services.

25 And that ends my quick little briefing.

1 HEARING OFFICER RANGE: John Blue of the Office of
2 Local Assistance will now go over the proposed changes to
3 Article 7.0 for the procedures for the submittal and
4 approval of the SRREs, the HHWEs, and the NDFEs.

5 John?

6 MR. BLUE: Thank you, Dianne. Good morning. My
7 name is John Blue. I'm with the Office of Local Assistance
8 here at the Board. And I've prepared a brief summary of the
9 changes to Article 7.0 -- they're in the back -- along with
10 some other information, including some examples of
11 hypothetical time lines that jurisdictions may encounter as
12 they try to push these SRREs through the approval process.

13 These aren't to be considered "the" way -- there
14 are any number of different possibilities as you look at
15 these -- but they're merely to demonstrate the variety of
16 lengths of time that you might encounter as you work these
17 through.

18 The changes to Article 7.0 reflect three pieces of
19 legislation -- AB 2494, AB 3001, and AB 440 most recently.

20 AB 2494 allows for the formation of regions to
21 achieve the diversion goals and for the planning
22 requirements. That was added to Article 7.0.

23 The 3001 requires the preparation of nondisposal
24 facility elements by cities and counties, and that was also
25 included, along with the procedures for the approval

1 process.

2 AB 440 changed the submittal dates for the SRREs
3 and the nondisposal facility elements, and required that
4 jurisdictions directly submit to the Board for approval.
5 And that has also been incorporated into Article 7.0.

6 We tried to include some other changes in here to
7 accommodate concerns of jurisdictions, including reducing
8 the number of elements that were required to be submitted to
9 the Board for the approval process. We had originally 20
10 and, as we saw the size of the documents and the cost, we
11 have reduced that to three.

12 And we've incorporated some new sections covering
13 the specifics and justifications required for the use of
14 sludge diversion towards the diversion goals, and also the
15 specific criteria that are required for the use of excluded
16 waste types when calculating your baseline diversion totals
17 in the initial source reduction and recycling element.

18 Thank you.

19 HEARING OFFICER RANGE: Thank you, John.

20 Now, I'd like to open up this public hearing to
21 public comment. The first person we have indicating they
22 wish to testify is Frank Muratore. Would you please step
23 up to the podium and speak into the microphone, please.

24 MR. MURATORE: Thank you and good morning.

25 My name is Frank Muratore. I represent the County

1 of Merced Public Works Department. My comments concern the
2 adoption of the proposed emergency regulations regarding the
3 preparation, adoption, and approval of the source reduction
4 and recycling element; namely, Sections 18760 through 18777
5 of Title 14.

6 Our concern is what effect does the formation of a
7 regional agency have on the procedures for the preparation,
8 adoption, and approval of these three elements; and, vice
9 versa, what effect did the procedures have on the formation
10 of a regional agency?

11 In our case, first, because Merced County has less
12 than eight years remaining capacity, our elements must be
13 submitted by April 30th, 1994. Second, we are proposing to
14 form a regional agency, and the agreement for this regional
15 agency will take some 18 months to be prepared and approved.

16 Our understanding is that we do not revise our
17 source reduction and recycling elements to conform with the
18 regional agency agreement until the regional agreement has
19 been approved by the Board. If that is the case, then it's
20 possible we will have a period of some 18 months to two
21 years elapse between April 30th, 1994 and the time our
22 revised SRRE is submitted to the Board.

23 Now, during that period of time, the SRRE that we
24 submitted on April 30th, 1994, will not reflect the changes
25 in programs that are going to be made under the regional

1 agency agreement.

2 Then, the question is, what will the Board
3 consider us to be during the period of time our elements are
4 in the process of being changed? Will we be in compliance
5 or noncompliance? Do we simply wait until our annual
6 reports are due and say that the regional agency agreement
7 will change the responsibilities of each member agency and
8 also change the maximum amount of disposal allowable for
9 each member agency?

10 If that's the answer, then perhaps there is no
11 problem, and we can work with it.

12 So, in summary, what we are asking for is that
13 there be an awareness of the time needed to make these
14 changes, and that local agencies be afforded that time
15 without being considered to be in noncompliance.

16 Thank you.

17 HEARING OFFICER RANGE: Thank you.

18 The next person we have registered to speak is
19 Chuck White.

20 MR. WHITE: Good morning. My name is Chuck White.
21 I'm with WMX Technologies, which includes Waste Management,
22 Incorporated. And Waste Management operates a number of
23 landfills and, in fact, is the largest provider of recycling
24 services to cities and counties within California.

25 And also, with WMX, also includes Wheelabrator

1 Technologies, which has a Biogro component that provides
2 composting services, as well, to -- to various jurisdictions
3 throughout the State.

4 And I've got two areas that I would like to
5 express comments on to you today. The first and foremost is
6 more a question having to do with the Article 6.2
7 regulations. And the specific concern I have appears on
8 page 6.2 - 21. And it is subsection (d) of Section 18744.
9 And it talks about the jurisdiction's nondisposal facility
10 element and the fact that it is appended to the SRR element
11 when it was included within the countywide integrated waste
12 management plan. And there's no problem with that, because
13 it appears to parallel the requirements that are contained
14 within the Public Resources Code.

15 But the last sentence of that subdivision (d)
16 indicates, "The Solid Waste Facility Capacity Component
17 shall include the Nondisposal Facility Element and any
18 amendments thereto at the time of the five-year SRR Element
19 revision."

20 And I'm not sure why the nondisposal facility
21 element would be included in your capacity component.
22 Because, as I understand, the capacity component really has
23 to do with capacity of disposal and transformation type of
24 facilities, not nondisposal type of facilities. And unless
25 I could understand why that would be included, I think the

1 position would be that perhaps it shouldn't be included in
2 the capacity element. But maybe I'm missing something here.

3 So, it's more of a question, I guess, to you folks
4 to help -- to help understand why that provision is being
5 put in there, because it would not appear to be consistent,
6 at least through our initial reading of it, with the Public
7 Resources Code.

8 And then I can go on to talk about my second area
9 of concern. And I have provided a letter here, which I'd
10 like -- it's addressed to John Blue and a copy to Steve
11 DeMello.

12 And I've spoken to Steve on the phone about this
13 before, but I thought I would get up and mention it. It has
14 to do with two new sections that are included in amended
15 Article 7, and those are the two new sections related to
16 procedures for approving sludge and excluded waste diversion
17 pursuant to the Public Resources Code, which does require
18 that these types of materials -- before they can be credited
19 towards meeting diversion requirements -- have to receive
20 specific Board approval.

21 And although we're not going to be the
22 jurisdictions that are seeking this approval, the services
23 we provide to the jurisdictions we serve -- cities and
24 counties -- we'd like to make sure that the procedures for
25 securing this approval are clear and clearly laid out within

1 the regulations.

2 And I guess our primary concern has to do with the
3 terms, "Board Staff" and "Board" on how those terms are used
4 within both new Sections 18776 and 18777. And it's kind of
5 unclear about who has the respective roles for determining
6 whether a petition is complete.

7 And, as we read the Public Resources Code, the
8 authority seems to be placed within the Board to make those
9 decisions as to whether a petition is complete. Yet, these
10 regulations, as currently written, seem to imply for both
11 these sections that the Board staff can make determinations
12 as to whether or not something is complete. And then, even
13 though a jurisdiction that may be submitting these -- these
14 proposals believes in their own mind it's complete, the
15 regulations seem to give the authority to the Board staff to
16 determine that it is incomplete. And I would like to see
17 the -- both these sections reworded such that it's clear
18 that a jurisdiction still is able to bring forward a package
19 to the Board for them to make the final decision with
20 respect to completeness.

21 Now, we're certainly not suggesting that the Board
22 staff shouldn't give their input to the process and
23 shouldn't be able to review the initial petition and initial
24 request for completeness and give their suggested comments
25 for consideration by the applicant jurisdiction, and that

1 the jurisdiction could then in turn make whatever changes it
2 deems to be appropriate and presumably would, for the most
3 part, take the Board staff recommends into account.

4 It's just that we would not want the time clock to
5 be triggered by the Board staff decision on completeness or
6 incompleteness, but rather be triggered by the initial
7 request to ensure that the Board does act within a timely
8 period to make a decision on the -- on both requests, either
9 for the use of sludge or the use of excluded materials.

10 And I have in my comments made some suggested
11 changes to these two specific sections that would, in fact,
12 address our concerns. They may not be the best. It's what
13 we basically thought would meet our concerns. I mean, we'd
14 be happy to sit down and talk to you further if you -- if
15 you feel there may be some concerns that we're not aware of
16 in drafting these suggested changes.

17 But I appreciate the opportunity to come forward
18 today and provide this perspective for your consideration,
19 and I look forward to further discussions, as appropriate.

20 MS. PERRY: To answer your first question
21 regarding --

22 MR. WHITE: Sure.

23 MS. PERRY: Yeah, the law's not clear about how it
24 will be appended into the SRRE at the fifth-year revision.
25 So, we made an attempt to include it in some component

1 within the SRRE. After further comment that we received,
2 what we want to do is make the nondisposal facility a
3 component of the source reduction/recycling element.

4 MR. WHITE: And I don't think that would be any
5 problem, because that's exactly what the law says -- it
6 shall be appended to the SRRE -- and maybe just leave it at
7 that, rather than try to put it into another component that
8 would appear, from our perspective, to have a completely
9 different purpose than that associated with the nondisposal
10 facility elements. So, good. Thank you.

11 HEARING OFFICER RANGE: Thank you for your
12 comments.

13 At this time, Allen, would you see if there's
14 anybody else back there on the sign-up sheet?

15 None? We have no other registered witnesses.

16 (Thereupon, a witness stood up, who had
17 not registered, and approached the
18 microphone.)

19 MS. DELMATIER: Sorry. I'm Denise Delmatier with
20 the Gualco Group. Didn't get it?

21 Denise Delmatier with the Gualco Group on behalf
22 of Norcal Waste Systems.

23 I would just echo everything that Mr. White just
24 said, and would encourage staff to move the NDFE component,
25 or whatever you want to refer to it, at the five-year

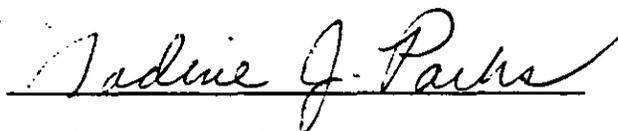
1 CERTIFICATE OF SHORTHAND REPORTER

2 --o0o--

3 I, Nadine J. Parks, a shorthand reporter of the
4 State of California, do hereby certify that I am a
5 disinterested person herein; that the foregoing public
6 hearing before the California Integrated Waste Management
7 Board was reported by me in shorthand writing, and
8 thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said hearing, nor am I
11 interested in the outcome of said hearing.

12 IN WITNESS WHEREOF, I have hereunto set my hand
13 this 23rd day of November, 1993.

14 

15 Nadine J. Parks

16 Shorthand Reporter
17
18

19 --o0o--
20
21
22
23
24
25