



**Agricultural Commissioner
COUNTY OF TULARE
AGENDA ITEM**

BOARD OF SUPERVISORS

KUYLER CROCKER
District One
PETE VANDER POEL
District Two
AMY SHUKLIAN
District Three
EDDIE VALERO
District Four
DENNIS TOWNSEND
District Five

AGENDA DATE: May 7, 2019

Public Hearing Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Published Notice Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Advertised Published Notice	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Meet & Confer Required	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes <input checked="" type="checkbox"/>	N/A <input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Personnel Resolution attached	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes <input type="checkbox"/>	N/A <input checked="" type="checkbox"/>

CONTACT PERSON: Tom Tucker PHONE: 624-3350

SUBJECT: Amendment of Biosolid Ordinances and Approval of Biosolid Management Permit Regulations

REQUEST(S):
That the Board of Supervisors:

On May 7, 2019

1. Approve the Categorical Exemption as the appropriate environmental determination, consistent with the California Environmental Quality Act (CEQA) and the State CEQA Guidelines, pursuant to Title 14, Cal. Code Regulations Section 15061(b)(3)
2. Direct the Environmental Assessment Officer, or designee, to sign and file the Notice with the County Clerk.
3. Introduce and waive the first reading of an ordinance amending Chapter 25 of Part IV of the Tulare County Ordinance Code, pertaining to Agricultural Application of Sewage Sludge.
4. Set the second reading for the non-zoning ordinance May 21, 2019
5. Direct the Clerk to publish a summary of the non-zoning ordinance before the second reading as required by law.

On May 21, 2019

6. Waive the second reading and adopt an ordinance amending portions of Chapter 25, of Part IV of the Tulare County Ordinance Code, pertaining to Agricultural Application of Sewage Sludge.
7. Direct the Clerk to publish a summary of the ordinance and post a full copy of

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- the ordinance after adoption as required by law.
8. Approve Biosolid Management Permit Regulations

SUMMARY:

The Tulare County Agricultural Commissioner requests your Board introduce and waive the first reading of an ordinance regarding which make it easier to apply treated biosolids on agricultural crops.

Under the current ordinance scheme, which was adopted in 1996, individuals may neither apply nor spread biosolids on agricultural land without a Biosolids Management Permit from the Agricultural Commissioner. The term "biosolids" is defined as sewage sludge that has undergone processes to reduce pathogens, pollutants, vectors, metal concentrations, and other physical contaminants. Under federal law, once sewer sludge undergoes these processes, the sewer sludge is reclassified as a "Class A Biosolid". "Class A Biosolids" which undergo further treatment can then be called "Exceptional Quality Compost" or "Exceptional Quality Sewage Sludge"

Since the ordinance went into effect, several neighboring Counties have allowed the land application of heavily treated Biosolids without requiring additional permitting. For example, the neighboring counties of Kings and Fresno both allow land application of Exceptional Quality Compost (or EQ-compost) by right, without any permitting required. The EQ-Compost must meet the ceiling concentration standards, the pollutant concentration standards, the pathogen reduction alternatives, and vector reduction options set forth in the Title 40, Code of Federal Regulations Part 503. In addition, the EQ-Compost must also reduce pathogens according to state law (Title 14, California Code of Regulations, section 17868.3).

Accordingly, the Tulare County Agricultural Commissioner has proposed the related zoning and non-zoning ordinance amendments in order to allow the land-spreading of EQ-Compost to agricultural crops without a Biosolids Management Permit. Similar to the definitions of EQ-Compost of the counties of Kings and Fresno, the proposed ordinances define EQ-Compost as "organic, composted material containing sewage" which meets all of the following criteria:

- 1) The ceiling concentration standards set forth in Title 40, Code of Federal Regulations, section 503.13(b)(1),
- 2) The pollutant concentration standards set forth in 40 CFR section 503.13(b)(3),
- 3) Has undergone one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a),
- 4) Has undergone one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1)-(8),
- 5) Has undergone the process to further reduce pathogens as described in section 17868.3 of Title 14 of the California Code of Regulations,

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- 6) Has undergone the process to further reduce maximum metal concentrations as described in section 17868.2 of Title 14 of the California Code of Regulations,
- 7) Has undergone the process to further reduce physical contamination limits under section 17868.3.1 of Title 14 of the California Code of Regulations

In effect, the ordinance “carves-out” EQ-Compost from the definition of Biosolids and allow land application by right.

In addition, the proposed ordinance also addresses the application of EQ-Sewage Sludge with an Administrative Use Permit from RMA and a Biosolids Management Permit from the Agricultural Commissioner. EQ-Sewage Sludge is defined as the sewage sludge that has met the Federal requirements on biosolids but has not undergone a process required by State law.

Finally, staff requests your Board approve an updated version of the Biosolid Management Permit regulations which set out the standards for approving those Biosolid Management Permits mentioned in the Ordinance Code.

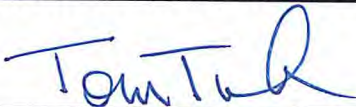
FISCAL IMPACT/FINANCING:

The proposed action will not have a significant fiscal impact.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

Economic Well Being: The proposed ordinance will create an outlet for already treated biosolids and protect the county’s agriculture-based economy.

ADMINISTRATIVE SIGN-OFF:



Tom Tucker, Agricultural Commissioner

Cc: County Administrative Office

Attachment(s):

Proposed Ordinance Amendment

Tulare County Ordinance Code, Chapter 25, Part IV with revisions noted

Updated Biosolids Management Permit Regulations

Draft Notice of Exemption

Ordinance Summaries

SUBJECT: Amendment of Biosolid Ordinances and Approval of Biosolid
Management Permit Regulations

DATE: May 7, 2019

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF AMENDMENT OF)
BIOSOLID ORDINANCE AND APPROVAL) Resolution No. _____
OF BIOSOLID MANAGEMENT PERMIT) Agreement No. _____
REGULATIONS)

UPON MOTION OF SUPERVISOR _____, SECONDED BY
SUPERVISOR _____, THE FOLLOWING WAS ADOPTED BY THE
BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD _____
_____, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: JASON T. BRITT
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

* * * * *

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CLERK, BOARD OF SUPERVISORS

BY: _____
Deputy Clerk

On May 21, 2019

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2. Directed the Clerk to publish a summary of the ordinance and post a full copy of the ordinance after adoption as required by law.
3. Approved Biosolid Management Permit Regulations

CHAPTER 25. AGRICULTURAL APPLICATION OF SEWAGE SLUDGE

ARTICLE 1. GENERAL PROVISIONS

4-25-1000 PURPOSE AND INTENT:

It is the purpose and intent of this chapter to regulate the agricultural land application of sewage sludge in the unincorporated areas of Tulare County, ~~in a manner that is consistent with agronomic rates and that protects public health and safety, water quality, and agricultural markets. Sewer sludge may contain heavy metals, pathogenic organisms, and chemical pollutants. To protect critical groundwater quality and food production areas, this chapter provides local control of sewer sludge spread on land and assures that safe land spreading practices of such sludge will be observed~~ in order to protect the public health, safety and welfare, ground and surface waters, agricultural markets, and sensitive wetland and habitat areas. To protect critical groundwater basins and food production areas, this chapter provides local control and assures the safe land application practices of only the safest category of sewage sludge will be land applied in Tulare County. To the extent that this chapter allows the land application of EQ-Compost, it is not intended to take the place of standards imposed upon the land application of sewage sludge by state law and by the application rules, regulations, orders, and requirements of the State Water Resources Control Board and the California Regional Water Quality Control Board. The County recognizes that Exceptional Quality Sewage Sludge which has been composted, defined in this chapter as "EQ-Compost", is considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags, or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land.

It is not the intent of this Chapter to regulate the land application of EQ-Compost.

4-25-1005 DEFINITIONS:

(a) "Agricultural Commissioner" means the Tulare County Agricultural Commissioner/Sealer or his or her designated representative or deputy.

(b) "Applicator" means any person, company, organization, or other legal entity engaged, or about to become engaged, with the placement or spreading of biosolids on land at a controlled rate for the purpose of and enhancing the growth of plants, in accordance with the provisions of this Chapter.

(c) "Biosolids" means sewage sludge which

- (1) complies with the Class A biosolids standards in the Federal Rule 40 CFR 503.32(a) or has been stored for at least eighteen (18) months and has been tested to verify it meets the Class A biosolids standards in 40 CFR 503.32(a), and
- (2) contains constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13, Table 1 and Table 3, as applicable.
- (d) "Biosolids, Land Spreading of" means the beneficial use of biosolids generated by wastewater treatment plants as a soil amendment or fertilizer provided that the biosolids are applied at an agronomic rate and in conformance with Federal Rule 40 CFR 503, Subpart B. Methods of beneficial use shall be limited to incorporation of biosolids into the soil so that the biosolids will either condition the soil or fertilize crops or vegetation grown in the soil.
- (e) "Biosolids Land Spreading Site Plan" means map(s) and written information providing specific details on the locational and physical characteristics of a site on which biosolids are to be land spread, in accordance with an approved Biosolids Management Permit.
- (f) "Biosolids Management Permit" means a written plan that specifies the method of application of biosolids in conformance with the provisions of this Chapter and the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.
- (g) "County" means the County of Tulare, State of California.
- (h) "County's Biosolids Land Spreading Regulations" means those regulations adopted from time to time by resolution of the Tulare County Board of Supervisors pertaining to and setting standards and requirements for the land spreading of ~~sewer~~ sewage sludge and biosolids in the unincorporated areas of the County of Tulare.
- (i) "EPA" means the U.S. Environmental Protection Agency.
- (j) "Federal Rule" or "40 CFR Part 503" means the "Standards for the Use or Disposal of Sewage Sludge, 40 CFR Part 503, Final Rule" adopted by the U.S. Environmental Protection Agency (EPA) on February 19, 1993, in Title 40 of the Code of Federal Regulations Part 503 as amended from time to time.
- (k) "Generator" means a person (as defined herein) who generates biosolids during the treatment of domestic sewage in a treatment works.

(l) "Nutrient Management Plan" means the management strategy for nitrogen, phosphorous, potassium, and heavy metals developed for a given site based on the nutrients and metal concentrations in the biosolids to be applied, the background levels in the soil, nutrient requirements of the crop to be planted, and any additional amendments or fertilizers.

(m) "Person" means any person, firm, business, city, county (other than the County of Tulare), district, special district, including a water district, a Public Utility District, sole proprietorship, partnership, joint venture, trust, association, or corporation whether for profit or non-profit.

(n) "~~Sewer~~ Sewage or Sewage Sludge" means a solid, semi-solid, or liquid residue generated during the treatment of sewage in a treatment works or sewage treatment plant. Sewage sludge includes, but is not limited to, septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes, and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during primary treatment of sewage in a treatment works. As used in this ordinance, the term "Sewage Sludge" does not include ~~sewer sewage~~ sludge to be land applied which has been diluted through composting and is distributed in bags or other similar containers not exceeding one hundred (100) pounds for landscaping purposes or for home use and has been classified as 'exceptional quality biosolids products' in compliance with all applicable State and Federal rules and regulations. "Sewage or Sewage Sludge" does not include EQ-compost, as defined herein

(o) "Active Compost" means compost feedstock that is in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition, and is releasing carbon dioxide at a rate of at least 15 milligrams per gram of compost per day, or the equivalent of oxygen uptake.

(p) "EQ-Compost or Exceptional Quality Compost" means an organic, composted material containing sewage sludge which means all of the following:

1) the ceiling concentration standards set forth in Title 40, Code of Federal Regulations, section 503.13(b)(1),

2) the pollutant concentration standards set forth in 40 CFR section 503.13(b)(3),

3) one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a),

4) one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1)-(8),

5) which has undergone the process to further reduce pathogens as described in section 17868.3 of Title 14 of the California Code of Regulations,

6) has undergone the process to further reduce maximum metal concentrations as described in section 17868.2 of Title 14 of the California Code of Regulations,

7) has undergone the process to further reduce physical contamination limits under section 17868.3.1 of Title 14 of the California Code of Regulations,

(q) “EQ-Sewage Sludge or Exceptional Quality Sewage Sludge” means sewage sludge which meets all of the following:

1) the ceiling concentration standards set forth in 40 CFR section 503.13(b)(1)

2) the pollutant concentration standards set forth in 40 CFR section 503.13(b)(3),

3) one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a)

4) and one of the vector attraction reductions options set forth in 40 CFR sections 503.33(b)(1)-(8).

4-25-1010 TIME FOR COMPLIANCE:

No person shall spread biosolids or ~~sewer~~ sewage sludge within the unincorporated areas of Tulare County following the effective date of this Chapter except in compliance with all the terms and requirements of this Chapter.

4-25-1015 ENFORCEMENT:

The Agricultural Commissioner is authorized to enforce the provisions of this Chapter. The Agricultural Commissioner may issue an annual report to the Board of Supervisors relating to the implementation of this Chapter.

4-25-1020 NOT EXCLUSIVE REGULATION:

This chapter is not the exclusive regulation of the land spreading of ~~sewer~~ sewage sludge. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore or hereinafter adopted by the State, County, or any other legal entity or agency having jurisdiction.

4-25-1025 SEVERABILITY:

If any clause, provision, sentence, or paragraph of this Chapter, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not ~~effect~~ affect the other provisions of this Chapter, which shall still remain in effect, and to its end, it is hereby declared that the provisions of this Chapter are severable.

ARTICLE 2. PROHIBITIONS

4-25-1100 PROHIBITIONS:

- (a) Land application of untreated and/or domestic septage is prohibited.
- (b) No sewer sewage sludge shall be land spread unless it qualifies as biosolids as herein provided and in accordance with the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.
- (c) Land application of biosolids classified as 'hazardous' or 'designated', as those terms are defined in Section 2521(a) and Section 2522(a) of Title 23, California Code of Regulations, is prohibited.
- (d) Biosolids to be land applied in Tulare County shall be contained at the generator's wastewater treatment plant site and shall not be transported until a Biosolids Management Permit is issued by the Agricultural Commissioner for the proposed site where such biosolids will be applied.
- (d) The land spreading of biosolids conducted in any way which causes a public or private nuisance or degrades groundwater or surface water is hereby prohibited.
- (e) EQ-Compost or Exceptional Quality Compost, as defined above, may be applied without a permit from the Agricultural Commissioner under Article 3 of this Chapter and does not need to conform with the County's Biosolids Land Spreading Regulations. However, a grower must maintain for three (3) years records showing the EQ-Compost meets the requirements set out in section 4-25-1005(s).
- (f) EQ Sewage Sludge or Exceptional Quality Sewage Sludge, as defined above, may be applied only when authorized by a Biosolids Management Permit under Article 3, and must also be authorized by an Administrative Use Permit as required by Chapter 3, Section 15 of the Tulare County Zoning Ordinance.

4-25-1105 RESPONSIBILITIES:

- (a) The generator and applicator shall be jointly responsible for the quality of the biosolids to be land spread. The applicator shall also be responsible for compliance with biosolids transportation, land spreading, and monitoring requirements of this Chapter. If the applicator fails to meet these requirements, then the generator shall be responsible for compliance.
- (c) The landowner shall be responsible for compliance with the Nutrient Management Plan.

(d) The applicant shall obtain, and submit to the Agricultural Commissioner, a written statement showing that the grower and landowner have been informed of potential problems associated with biosolids and consent to land spreading of biosolids on the site.

ARTICLE 3. PERMIT REQUIREMENTS

4-25-1300 PERMIT AND APPROVAL REQUIREMENTS:

(a) No person shall apply sewage sludge biosolids in the unincorporated areas of Tulare County without first having obtained approval of a Biosolids Management Permit, including a 'Land Spreading Site Plan' and a 'Nutrient Management Plan' for each site and other supporting documentation, from the Agricultural Commissioner and paid all fees as set from time to time by resolution of the Tulare County Board of Supervisors.

(b) In order to obtain the approvals required by subsection (A), each person shall file an application for such approvals with the Agricultural Commissioner as provided in the County's Biosolids Land Spreading Regulations and shall continuously comply with the provisions of this Chapter and all of the requirements, including quality standards, application standards, inspection, monitoring and reporting requirements, and insurance and bonding requirements set out in the County's Biosolids Land Spreading Regulations.

4-25-1320 ACTION ON APPLICATIONS FOR REQUIRED APPROVALS:

(a) The Agricultural Commissioner shall approve the Biosolids Management Permit if it complies with all of the requirements of this Chapter, the County's Biosolids Land Spreading Regulations, and with all local, state, and federal laws and regulations, unless the Agricultural Commissioner finds that the applicant has shown:

- (1) Lack of responsibility as shown by past work by the applicant; or
- (2) Demonstrated failure to comply with local, state, or federal laws and regulations.

(b) Approvals granted for Biosolids Management Permits shall be valid for a period not to exceed five (5) years and shall be reviewed annually. If a Land Spreading Site Plan is not applied for on land subject to a Biosolids Management Permit within two years of the approval date of the Management Permit, then said Biosolids Management Permit shall expire. Time extension(s) may be granted for a period/periods not to exceed the total five-year period initially approved.

(c) A Nutrient Management Plan shall only be valid for the particular crop or crops which are the subject of the plan. If the applicator or property owner desire to change the crops or crops

used, a new Nutrient Management Plan is required and the Land Spreading Site Plan shall automatically be suspended until a new Nutrient Management Plan is approved.

(d) A Land Spreading Site Plan shall be valid for a twelve-month period.

(e) Applicants shall be notified of incomplete or inaccurate applications within ten (10) working days after the date of the filing of the applications for each. The applicant may make the necessary corrections and additions and resubmit the application within sixty (60) days of notification. Failure to supply the corrections and additions within 60 days shall be deemed withdrawal of the application.

(f) Notice of the application and the comment period shall be given to all owners of properties that are within 2640 feet (1/2 mile) of the parcel(s) containing each site on which biosolids are to be applied. Said notice shall be given to property owners shown on the latest equalized assessment roll, which shall be provided to the Agricultural Commissioner by the applicant, and shall be sent by the Agricultural Commissioner by first-class mail at least ten (10) working days prior to the rendering of a decision by the Agricultural Commissioner. The applicant(s), all landowners who receive a copy of the first notice, any person requesting a copy of the specific opinion in writing and the Board of Supervisors shall be mailed a copy of the Agricultural Commissioner's decision.

(g) Written notice of the approval or denial of an application for a Biosolids Management Permit or Land Spreading Site Plan shall be given by personal delivery or by mailing by certified mail to the applicant at the address on file with the Agricultural Commissioner. The Agricultural Commissioner shall review the completed Biosolids Management Permit application and shall approve or reject the plan within twenty (20) days of its acceptance as complete.

(h) Any person adversely affected by the Decision of the Agricultural Commissioner regarding approval or denial of a Biosolids Management Permit, Nutrient Management Plan, or Land Spreading Site Plan may appeal the decision to the Board of Supervisors. An appeal to the Board of Supervisors shall be in writing and filed with the Clerk of the Board of Supervisors in accordance with section 165 of the Ordinance Code of Tulare County. The Clerk shall give notice and the appeal hearing and decision procedure shall be handled in accordance with the provisions of section 165 of this Ordinance Code.

(i) A Biosolids Management Permit approval or Land Spreading Site Plan approval may be revoked by the Agricultural Commissioner when evidence demonstrates that the applicant has violated any of the following:

- (1) any provision(s) of this Chapter, including its fee requirements, and the County's Biosolids Land Spreading Regulations;
- (2) any federal/state laws or regulations; or
- (3) the waste discharge requirements of the Regional Water Quality Control Board.

If the Agricultural Commissioner revokes the Biosolids Management Permit approval or Land Spreading Site Plan approval, a written notice to this effect shall be delivered within five (5) working days person or by certified mail to the business address of the name appearing on the application. The written notice shall state the grounds for the revocation.

(j) The applicant may appeal an Agricultural Commissioner revocation to the Board of Supervisors in accordance with section 165 of this Ordinance Code by filing a written notice of appeal and request for hearing before the Board of Supervisors with the Clerk of the Board not more than ten (10) calendar days after notice of the revocation has been delivered. Unless the Agricultural Commissioner finds the grounds for the revocation to constitute an immediate threat to public health or safety, any revocation by the Agricultural Commissioner shall be stayed during the pendency of an appeal there from which has been properly and timely filed. At the next regular meeting of the Board of Supervisors following the filing of the appeal the Board of Supervisors shall set the matter for public hearing. The Clerk shall give notice to the applicant and the revocation appeal hearing and decision procedure shall be handled in accordance with the provisions of section 165 of this Ordinance Code.

(Added by Ord. No. 3166, effective 7-26-96.)

4-25-1325 FEES:

- (a) It is the intent of this Chapter that application, monitoring, and inspection fees shall be imposed in an amount necessary to fully recover the actual costs incurred by the County in administering this Chapter and paid by the applicant(s), with no costs of administration or enforcement of this Chapter passed on to Tulare County growers or residents. Such fees shall be established from time to time by resolution of the Tulare County Board of Supervisors.
- (b) All costs of laboratory analysis of biosolids, soil, water, and vegetation samples requested by the Agricultural Commissioner and this Chapter shall be paid by the applicant(s).
- (c) The aforementioned fees shall be paid at the same time that the application is filed for such permit or appeal, and no part of said fees shall be returned to the applicant if he subsequently

withdraws his application. However, if a person who wishes to apply for, or who has applied for a permit or appeal, believes that special circumstances exist that make it inequitable or unreasonable for the County to charge an application fee or retain an application fee previously paid, he may request a waiver of said fee or a refund of the fee paid and said request shall be processed in accordance with sections 130 and 135 of the Ordinance Code of Tulare County.

(Added by Ord. No. 3166, effective 7-26-96.)

4-25-1330 DELINQUENCY DATES AND PENALTIES:

(a) The delinquency date of any fee required by this Chapter, in the case of permitted sites, shall be the thirtieth (30th) day following the initial billing date, and shall be paid by a person holding the Biosolids Management Permit.

(b) If any fee specified is not paid prior to the delinquency date, the permittee shall pay a penalty. A penalty fee of twenty-five percent (25%) of the initial billing will be imposed upon its delinquency. If the permit fee is not paid within sixty (60) days of the initial billing, the fee will be doubled.

(c) Failure to pay fees as herein provided in a timely manner is grounds for revocation.

ARTICLE 5. MONITORING AND UPDATING REQUIREMENTS

4-25-1500 RIGHT OF ENTRY:

As a condition to the issuance of a permit under this Chapter, the generator, applicator, farm operator, landowner, and any lessee shall agree to allow the Agricultural Commissioner or other regulatory agencies at reasonable times and upon presentation of credentials to:

(a) Enter upon the applicator and/or generator's premises or location where any records are required to be kept under the terms and conditions of this Chapter or application permit.

(b) Have access to and copy any records required to be kept under the terms and conditions of this Chapter or application permit.

(c) Inspect any monitoring equipment or observe any monitoring method required in this Chapter or application permit.

(d) Inspect any collection, transport vehicles, treatment, pollution management, or control facilities required under this Chapter or application permit.

- (e) Enter any site where biosolids are proposed to be used or have been used or stored and sample any ground or surface waters, soils, vegetation, biosolids, or other materials on the site.
- (f) Obtain any photographic documentation or evidence.
- (g) Generally inspect, observe, and monitor the biosolids application operation.

4-25-1505 INSPECTIONS, MONITORING, AND REPORTING:

As a condition to the issuance of a permit under this Chapter, the generator, applicator, farm operator, landowner, and any lessee shall comply with the inspection, monitoring and reporting requirements set out in the County's Biosolids Land Spreading Regulations and pay such fees for County services to inspect, monitor and review reports as are set from time to time by resolution of the Tulare County Board of Supervisors.

ARTICLE 7. GENERAL REQUIREMENTS

4-25-1705 COMPLIANCE WITH FEDERAL AND STATE LAWS AND LOCAL REGULATIONS:

- (a) Land spreading of biosolids shall comply with all federal and state laws and regulations, including 40 CFR Part 503 of the Code of Federal Regulations or its revisions; however, the County Biosolids Land Spreading Regulations may require more restrictive concentrations for metals than the limits set forth in 40 CFR Part 503, based on conditions specific to Tulare County.
- (b) No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all requirements of the California Regional Water Quality Control Board. This section shall apply to both EQ-compost and Exceptional Quality Sewage Sludge.
- (c) No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all of the requirements of this Chapter and the County's Biosolids Land Spreading Regulations.

4-25-1710 AUTHORIZATION: COUNTY BIOSOLIDS LAND SPREADING REGULATIONS:

The quality of biosolids to be land spread, the land spreading operation and transportation and monitoring shall conform to the applicable standards and requirements which are set forth in the

document entitled "Tulare County Biosolids Land Spreading Regulations" as such standards and requirements are adopted by the Board of Supervisors from time to time by resolution.

4-25-1715 APPLICATION AND CONTINUING COMPLIANCE:

After the approvals required by section 4-25-1300 have been obtained, each generator and applicator shall comply with the standards, regulations, and other requirements set out in the County's Biosolids Land Spreading Regulations for the actual land spreading of biosolids. Failure to do so shall be a violation of the provisions of this Chapter as set forth in Article 9 hereof.

4-25-1720 TECHNICAL STANDARDS:

Technical standards governing biosolids application rates, cumulative soil metals, etc. shall be as established by the Regional Water Quality Control Board and 40 CFR Part 503 or its revisions and in conformance with the approved Nutrient Management Plan.

ARTICLE 9. VIOLATIONS

4-25-1900 VIOLATIONS/PENALTIES:

Any person violating any prohibition of this Chapter or failing to comply with any of the provisions of this Chapter or the County's Biosolids Land Spreading Regulations shall be guilty of a misdemeanor and be subject to the penalties set forth in section 125 of this Ordinance Code. Such person shall be guilty of a separate offense for each and every day during any portion of which any violation of this Chapter is committed, continued, or permitted by such person, and shall be punishable therefore as hereinabove provided.

4-25-1905 PUBLIC NUISANCE DECLARATION:

Any violation of any provision of this Chapter or failure to comply with any requirement of this Chapter or the County's Biosolids Land Spreading Regulations shall constitute a public nuisance and may be abated pursuant to the procedures of the Tulare County Public Nuisance Ordinance or abated or enjoined by any other means provided by law.

TULARE COUNTY BIOSOLIDS LAND SPREADING REGULATIONS

-- DECLARATIONS

DECLARATION 1. IMPLEMENTATION:

These regulations are intended to and will implement Tulare County Ordinance Code, Part IV, Chapter 25 entitled "Agricultural Application of Sewage Sludge", as adopted by Tulare County Ordinance No. _____, and as amended from time to time.

-- GENERAL PROVISIONS AND REQUIREMENTS

SECTION 1. DEFINITIONS:

Whenever in these regulations the following terms are used, they shall have the meanings respectively ascribed to them in this section unless the context clearly dictates otherwise:

- (a) "Agronomic Rate" means a rate at which sewer sludge or biosolids applications do not exceed nitrogen requirements for the crop to be grown and do not result in phytotoxicity (accumulation of heavy metals and/or nutrients adverse to normal vegetative growth).
- (b) "Applicant" means the generator, applicator, and property owner.
- (c) "Biosolids of Exceptional Quality, Compost" means sewage sludge that meets all three of the following criteria:
 - 1) the ceiling concentration standards set forth in Title 40, Code of Federal Regulations, section 503.13(b)(1),
 - 2) the pollutant concentration standards set forth in 40 CFR section 503.13(b)(3),
 - 3) one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a),
 - 4) one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1)-(8),
 - 5) which has undergone the process to further reduce pathogens as described in section 17868.3 of Title 14 of the California Code of Regulations,

- 6) has undergone the process to further reduce maximum metal concentrations as described in section 17868.2 of Title 14 of the California Code of Regulations,
- 7) has undergone the process to further reduce physical contamination limits under section 17868.3.1 of Title 14 of the California Code of Regulations.

~~(i) as to pollutants, the sewage sludge meets both the ceiling concentration limits of Table 1 of 40 CFR 503.13 and the pollutant concentration limits of Table 3 of 40 CFR 503.13; (ii) as to pathogens, the sewage sludge meets at least one of the applicable Class A pathogen reduction alternatives (performed by the generator) set forth in 40 CFR 503.32(a); and (iii) the sewage sludge has been subjected to at least one of the applicable vector attraction reduction methods (performed by the generator) set forth in 40 CFR 503.33.~~

(d) "Biosolids of Exceptional Quality, Sewage Sludge" means sewage sludge that meet all of the following requirements.

- 1) the ceiling concentration standards set forth in 40 CFR section 503.13(b)(1),
- 2) the pollutant concentration standards set forth in 40 CFR section 603.13(b)(3),
- 3) one of the class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a),
- 4) and one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1) through (b)(8).

(e) "Biosolids, Improved Quality" means Class B sewage sludge that has been stored for a minimum of eighteen months and has been tested to verify that the material meets the Class A Biosolids standards set forth in Federal Rule 40 CFR 503.32 and contains constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13 Table 1 and Table 3.

(f) "Biosolids, Land Spreading of" means the beneficial use of biosolids generated by wastewater treatment plants as a soil amendment or fertilizer provided that the biosolids are applied at an agronomic rate and in conformance with Federal Rule 40 CFR 503, Subpart B. Methods of beneficial use shall be limited to incorporation of biosolids into the soil so that the biosolids will either condition the soil or fertilize crops or vegetation grown in the soil.

(g) "Floodway" means that area subject to flooding as defined in Chapter 27 of Part VII of the Tulare County Ordinance Code.

(h) "Food Crops" means those crops consumed by humans.

(i) "Irrigation Tail Water" means the water applied to a field that does not infiltrate the soil, but collects or runs off at the lower end of a field.

(k) "Sewage Sludge, Class A" means sewage sludge meeting the Class A pathogen reduction requirements listed in Federal Rule 40 CFR 503.32 and any amendments thereto.

- (l) "Sewage Sludge, Class B" means sewage sludge meeting the Class B pathogen reduction requirements listed in Federal Rule 40 CFR 503.32 and any amendments thereto.
- (m) "Site" means a discrete, discernable, and identifiable individual piece of land used for the production of one crop, not to exceed 640 acres or one section, whichever is greater, designated or under consideration for biosolids use, as determined by the Agricultural Commissioner.
- (n) "Staging Area" means the location on a site where biosolids are deposited on the ground [not to exceed twenty-four (24) hours] for loading onto a vehicle for application, on the same or nearby sites, in conformance with an approved Biosolids Management Permit.
- (o) "Treatment" means a process that alters, modifies, or changes the biological, physical, or chemical characteristics of sewage sludge.
- (p) "Vehicle" means any motorized or non-motorized conveyance used to transport biosolids on public roadways.
- (q) "Wastewater Treatment Plant" means a facility designed and constructed to receive, treat, or store sewage combined with waterborne waste.

SECTION 2. GENERAL REQUIREMENTS FOR BIOSOLIDS:

Before any person may land spread sewage sludge/biosolids in the unincorporated areas of Tulare County, the material must meet the following standards:

- (A) The wastewater treatment plant generating the sewage sludge must have a current waste discharge permit from a Regional Water Quality Control Board or the equivalent permit meeting Clean Water Act requirements applicable in the jurisdiction of the wastewater treatment plant.
- (B) The material to be land applied must qualify as "Biosolids", as defined in Section 4-25-1005 of Chapter 25 of Part IV of the County Ordinance Code and as supported by evidence that demonstrates Exceptional Quality or Improved Quality Biosolids.
 - 1) If the biosolids to be applied shall meet the definition of "Biosolids of Exceptional Quality, Compost" Biosolids in Section 1, they may be applied without a Biosolid Management Permit and are exempted from any requirements otherwise imposed by these Biosolid regulations. However, any landowner applying Biosolids of Exceptional Quality, Compost must maintain records showing the EQ compost complies with the definitions listed in Section 1 for three years. Supporting evidence shall be submitted to the Agricultural Commissioner that demonstrates the material meets

~~Exceptional Quality standards and complies with state and federal rules and regulations required for compliance with state and federal rules and regulations for material to be applied within the County;~~

2) If the material to be land applied qualifies as "Biosolids of Exceptional Quality Sewer Sludge", then a landowner must obtain a Biosolid Management Permit and shall abide by the same procedures for land application of Biosolids of Improved Quality.

~~23) The biosolids to be applied shall meet the definition of Improved Quality Biosolids in Section 1. Confirmation of stockpiling for a minimum period of time of eighteen (18) months at the generator's site shall be provided to the Agricultural Commissioner. In addition to stockpiling of the biosolids for no less than said eighteen (18) months and prior to the issuance of an application permit, an initial submittal shall be provided by the generator verifying Class A equivalency for pathogen reduction as set forth in 40 CFR Part 503.32 and meeting of Table 3 pollutant concentration limits for metals as set forth in 40 CFR 503.13. Repeat submittals shall be provided at intervals prescribed by the Agricultural Commissioner, but in no case shall the interval exceed one (1) year. Supporting evidence shall be submitted to the Agricultural Commissioner that demonstrates the material meets Exceptional Quality standards and complies with state and federal rules and regulations required for compliance with state and federal rules and regulations for material to be applied within the County.~~

SECTION 3. REQUIREMENTS FOR LAND SPREADING OF BIOSOLIDS:

Land spreading of biosolids shall meet the following requirements:

- (A) Land spreading of biosolids shall occur only on sites approved by the Agricultural Commissioner for land spreading, in accordance with these Regulations, and only after the applicant, at his own expense, has executed and filed with the County Recorder a certified copy of the approval of the Agricultural Commissioner granting the Land Spreading Site Plan with a duly authorized acceptance, in the form approved by County Counsel, endorsed thereon.
- (B) The areas at the site to receive biosolids application shall be clearly marked with stakes or other prominent markers before the application of biosolids.
- (C) Except as herein provided, biosolids shall not be land spread on land that is to be planted in a crop(s) that will be used for human consumption. However, where Exceptional Quality biosolids are land spread, only the first crop following application of biosolids shall not be used for human consumption. For Improved Quality biosolids, refer to waiting periods set forth in (D) below.

- (D) After the application of Improved Quality biosolids in each field approved for land spreading, the following waiting periods shall be applicable:
- 1) For at least thirty (30) days:
 - (a) Public access to the application sites is restricted. Methods to restrict access shall be determined by the Agricultural Commissioner.
 - (b) Feed and fiber crops are not harvested.
 - (c) Animals do not graze on the land.
 - 2) For at least twelve (12) months:
 - (a) Turf sod is not harvested.
 - (b) If the field is used as pasture, grazing by milking animals is prohibited.
 - 3) For at least fourteen (14) months:
 - (a) Food crops with harvested parts that touch the biosolids/soil mixture and are totally above the land surface are not harvested.
 - 4) For at least thirty-eight (38) months:
 - (a) Food crops with harvested parts below the surface are not harvested.
 - (b) If the field is used as pasture, grazing of milking animals used for producing unpasteurized milk for human consumption is prohibited.
- (E) Biosolids applications shall be limited to once per crop.
- (F) Biosolids shall be landspread within twenty-four (24) hours of arrival at the approved site, except as provided in Section 4.
- (G) Biosolids application rates shall not exceed agronomic rates or any rates that cause specific constituents to exceed single, annual, or lifetime application limits, as determined in a Nutrient Management Plan approved pursuant to Section 6, based on all of the following:
- 1) 40 CFR Part 503.
 - 2) Regional Water Quality Control Board laws and regulations.
 - 3) Soil cation exchange rates at the application site.
 - 4) Nitrogen demand of the crop.
 - 5) Phytotoxicity of the crop.

- (H) The following buffer areas shall be observed for biosolids land spreading and staging areas:
- 1) Minimum of twenty-five feet (25') from property lines.
 - 2) Minimum of five hundred feet (500') from domestic or public water supply wells (wellhead protection area); occupied dwellings; schools; hospitals or similar facilities.
 - 3) Minimum of fifty feet (50') from non-domestic water supply wells.
 - 4) Minimum of fifty feet (50') from public roads.
 - 5) Minimum of one hundred feet (100') from surface waters, including, but not limited to, creeks, ponds, lakes, vernal pools, marshes, or floodways.
 - 6) Biosolids shall not be applied to the land if it is likely to adversely affect a threatened or endangered species listed under Section 4 of the Endangered Species Act or its designated critical habitat.
- (I) Biosolids shall not be land spread to within 10' of the ground water level. Unless otherwise determined by the Agricultural Commissioner, the water table information used shall be the U.S.D.I. Bureau of Reclamation "Lines of Equal Depth to Ground Water" maps.
- (J) The discharge of biosolids to surface waters or surface water drainage courses is prohibited.
- (K) The discharge of irrigation tailwater, stormwater, or other field runoff to surface water following biosolids application is prohibited for thirty (30) days following land spreading, to minimize the chance of biosolids being carried from the application site to surface waters.
- (L) Land spreading of biosolids within any designated floodway or drainage easement is prohibited.
- (M) Biosolids shall not be land spread to water-saturated soil, during periods of rainfall, when the ground is frozen, or when wind speeds at the site exceed twenty (20) m.p.h. The 20 m.p.h. wind speed requirement for land spreading may be waived if the biosolids or soil has a moisture content adequate to prevent wind-borne transportation off the site, as determined by the Agricultural Commissioner. In addition, the land spread shall comply with the air district regulations including, but not limited to, PM-10 and fugitive dust rules, as applicable.
- (N) Biosolids shall not be spread on slopes exceeding fifteen percent (15%). For slopes greater than two percent (2%), disking parallel to slope contours is required to inhibit erosion.

SECTION 4. STORAGE OF BIOSOLIDS:

- (A) Biosolids staging areas shall be restricted to sites approved under a biosolids management plan. Staging areas shall

not be located in buffer areas as set forth in Section 3. All biosolids within a staging area shall be land spread within twenty-four (24) hours from time of delivery to the staging area. The staging area shall be sufficiently cleaned of biosolids so that the application rate within the staging area does not exceed the approved application rate for the site.

- (B) Storage of biosolids at the permitted site for longer than twenty-four (24) hours is prohibited unless extended for good cause by the Agricultural Commissioner for a period or periods not exceeding twenty-four (24) hours each. Storage of biosolids in excess of seven (7) days is considered a 'disposal area', which is a special use under the County Zoning Ordinance (Ordinance No. 352), as amended.

-- PERMIT AND PLAN APPLICATION REQUIREMENTS

SECTION 5. BIOSOLIDS MANAGEMENT PERMIT: STANDARDS FOR APPROVAL:

- (A) The activities under the Biosolids Management Permit shall comply with the regulations and guidelines set forth in 40 CFR Part 503, the applicable Regional Water Quality Control Board laws and regulations, and any revisions of the EPA and State requirements related to sewage sludge application, and shall comply with application rates and standards identified in the Nutrient Management Plan approved under Section 6.
- (B) Prior to submitting an application for a Biosolids Management Permit, the applicant shall obtain verification from the County Planning and Development Department that the site complies with the provisions of the Tulare County Zoning Ordinance. The verification shall be submitted with the application for a Biosolids Management Permit. In addition, if any facility for biosolids equipment cleaning, maintenance, and/or storage is to be located off site within Tulare County, verification that said facility is properly zoned and constructed consistent with all applicable building and zoning regulations shall be obtained from the Planning and Development Department and submitted with the application.
- (C) Applications for Biosolids Management Permit approval shall be submitted to the Agricultural Commissioner upon forms approved by the Agricultural Commissioner and signed by the generator, applicator, and property owner, shall be accompanied by an application fee as established from time to time by resolution of the Tulare County Board of Supervisors, and shall include the following information and/or documents:
- 1) Names, addresses, and telephone numbers of the generator, applicator, and property owner.
 - 2) If the applicant(s) are not individuals but a type of legal entity such as sole proprietorship, partnership, joint venture, corporation, business, trust, or company, the identification of the type of entity including names, home address, and percentage of the entity's officers and of all owners. Information as to ownership interest of less than one percent (1%) need not be provided.
 - 3) Identification of the local manager and responsible office personnel and local address and 24-hour telephone number.
 - 4) A statement setting forth facts demonstrating that the applicant owns or has access to suitable facilities for equipment cleaning, maintenance, and storage. The addresses of all such facilities shall be provided with the application.
 - 5) A list of vehicles to be used for the transportation and/or application of biosolids.

- 6) A copy of the insurance policies of the type and in the amounts specified in Section 7, prior to the start of operations.
 - 7) Security meeting the specifications in Section 8.
 - 8) A description of the biosolids to be land spread, including:
 - (i) Source of biosolids (including names of the generator and each wastewater treatment plant from which the biosolids will originate).
 - (ii) Description of the characteristics of the biosolids proposed to be applied, including all applications required by 40 CFR Part 503 certifying that the sewage sludge has been treated to meet Class A standards, or evidence that demonstrates the sewage sludge has been stacked for a minimum of eighteen (18) months and meets the pathogen requirements for Class A as set forth in 40 CFR Part 503.
 - (iii) The location of biosolids that are the subject of the permit application along with written permission for Agricultural Commissioner access in the event that additional inspection and sampling is required pursuant to Section 11.
 - 9) A Land Spreading Site Plan and a Nutrient Management Plan in conformance with Section 6, for each site covered by the Biosolids Management Permit.
- (D) No Biosolids Management Permit may be approved until the Agricultural Commissioner, County Counsel, and County Risk Manager have reviewed and approved the insurance and bonding programs in conformance with Sections 7 and 8.

SECTION 6. LAND SPREADING SITE PLAN: STANDARDS FOR APPROVAL:

- (A) Applications for Land Spreading Site Plan approval shall be submitted to the Agricultural Commissioner upon forms approved by the Agricultural Commissioner and signed by the generator, applicator, and property owner, shall be accompanied by an application fee as established from time to time by resolution of the Tulare County Board of Supervisors, and shall include the following information and/or documents:
- 1) Name, address, and telephone number of the land owner and any lessee with written proof of land owner and lessee agreement to biosolids use, allowable crops, right of entry, and the other conditions and provisions of these Regulations.
 - 2) Legal description and Assessor Parcel Number(s) of site location.
 - 3) Net acreage.
 - 4) Slope of ground.
 - 5) Depth to groundwater.
 - 6) Surface water protection measures.
 - 7) Buffer areas for occupied dwellings, property lines, roads, and wells (as required under Section 3).
 - 8) A detailed site map prepared at a scale acceptable to the Agricultural Commissioner depicting the site boundaries and the limits of biosolids application, the buffer areas specified under (6) above, and all homes, ditches, drainage courses, wells, and irrigation structures within 2640 feet (½ mile) of the site boundaries.
 - 9) A detailed Plan of Operation consisting of:
 - (i) Generalized description of land spreading, including location.
 - (ii) Description of equipment to be used.
 - (iii) Special procedures for equipment breakdown.
 - (iv) Soil incorporation methods.
 - (v) Inclement weather plan.
 - (vi) Dust control plans.
 - (vii) Nuisance avoidance measures.
 - (viii) Name of water delivery and/or drainage agency in whose jurisdiction the biosolids are applied.
 - (ix) Any other relevant information requested by the Agricultural Commissioner.
 - 10) Any other relevant information specifically related to the applicant's compliance with 40 CFE Part 503 et.

seq., State law, Regional Water Quality Control Board permit conditions, or this chapter requested by the Agricultural Commissioner.

- 11) A Nutrient Management Plan shall be submitted for confirmation by the Agricultural Commissioner. The Nutrient Management Plan shall describe the application rates in dry tons per acre and contain a comprehensive assessment of all soil amendments applied to the site within the last three years and documents application conditions, amount, and rates of all soil amendments planned for the crop to be planted and a plan that describes how future nutrient and amendment needs will be determined, and shall contain the following:
- (a) Crops to be grown on the site and a schedule for planting.
 - (b) A list of the predominant soil types on the site and the soil testing methodology.
 - (c) Each site for biosolids utilization shall be tested for pH, cation exchange capacity (CEC), and metals listed in Table 3 (plus Molybdenum) prior to application of biosolids.
 - (d) A statement by an individual certified by the American Registry of Certified Professionals in Agronomy, Crops, and Soils (ARCPACS), by a registered agricultural engineer, or by a certified crop advisor, indicating the recommended agronomic rates for biosolids application. Such recommendation must be based on soil conditions in the area and be crop specific.
 - (e) Annual application rate and lifetime application rate of biosolids (pursuant to 40 CFR Part 503).

SECTION 7. INSURANCE REQUIREMENTS

- (A) The applicant/permittee shall procure and maintain insurance for the duration of its Land Spreading Site Plan against claims for injuries to persons and damage to property, including injury or damage due to pollution and environmental impairment, which may arise from, or in connection with, performance under the Land Spreading Site Plan by the applicant/permittee, his agents, representatives, employees or subcontractors, if applicable.

The scope and limits of insurance shall be set by the Board of Supervisors by resolution. The applicant/permittee shall procure and maintain for the duration of its Land Spreading Site Plan all legally required insurance for its employees including, but not necessarily limited to, workers' compensation insurance, disability and unemployment insurance.

SECTION 8. SECURITY FOR PERFORMANCE / COST OF ABATEMENT:

- (A) Security. The purpose of the security is to provide financial resources to Tulare County for nuisance abatement in the event of non-compliance with this chapter. The security shall take the form of a corporate surety bond, irrevocable letters of credit, trust funds, cash deposits to the County, or such other forms of security as the Board of Supervisors may from time to time approve. If a corporate surety bond is offered as security for performance under the site plan, it may be a copy of the corporate surety bond required by the Regional Water Quality Control Board (RWQCB). The County shall be named on the bond as an obligee. If a bond is not required by the RWQCB, the permittee shall furnish acceptable security to the Agricultural Commissioner as security for performance under the Land Spreading Site Plan. The amount of the security shall be determined by the Agricultural Commissioner based on the quantity, size, and scope of biosolids application as set forth in the application and permit. Tulare County shall be named as the obligee or beneficiary of such security.
- (B) Term. The security shall remain in effect until use of the property under the Land Spreading Site Plan has been terminated and final testing reviewed by the Agricultural Commissioner to determine that a public nuisance or environmental impairment does not exist under the terms of these regulations and Chapter 25 of Part IV of the Ordinance Code of Tulare County.
- (C) Premium. The premium or cost for the above-described security shall be paid by the permittee. A certificate from the surety showing that premiums have been paid in full, shall accompany the security. Proof of other used security shall be provided as required by the Agricultural Commissioner and approved by the County Counsel.
- (D) Authorized Company. The surety on a bond shall be a company acceptable to the County and shall be a corporate surety company authorized to do business in the State of California. The source or depository of any other security used shall be approved by the Agricultural Commissioner and the County Counsel.
- (E) Review. The Agricultural Commissioner, County Counsel, and County Risk Manager shall review the security to assure compliance with these Regulations.

-- GENERAL INSPECTION, MONITORING, AND REPORTING REQUIREMENTS SECTION 9. TIME OF DELIVERY OF BIOSOLIDS:

The applicator shall notify the Agricultural Commissioner in writing, by facsimile transmission or otherwise, of each expected delivery of biosolids to the site, at least twenty-four (24) hours in

advance of such delivery.

SECTION 10. VEHICLES:

- (A) Each vehicle used to transport or apply biosolids shall provide, on each side of the vehicle, the identity of the applicator (including name, address, city, and phone number), in a size with letters of not less than three (3) inches in height.
- (B) Vehicles shall be designed and maintained in such a manner as to prevent leakage or loss of material during transportation. All loads shall be fully tarped. Vehicle exteriors shall be free of biosolids before entering public roads.
- (C) The Agricultural Commissioner may suspend the use of any vehicle for failure to meet the vehicle requirements of this chapter.
- (D) Any parking and/or service/maintenance area for vehicles used for transportation or application of biosolids shall conform to requirements of the Tulare County Zoning Ordinance.

SECTION 11. BIOSOLIDS MANAGEMENT PERMIT: ADDITIONAL TESTING BY AGRICULTURAL COMMISSIONER:

The Agricultural Commissioner is herein authorized to sample and test biosolids for which a Biosolids Management Permit has been granted, on a frequency determined by the Agricultural Commissioner. Such sampling and testing shall be in addition to that required of the generator in accordance with 40 CFR Part 503 and applicable State rules and requirements. Such testing shall be utilized to confirm the quality of biosolids to be land spread. The Agricultural Commissioner may retain an independent laboratory to perform such sampling and testing. The person holding the Biosolids Management Permit shall be responsible for such costs.

SECTION 12. MONITORING:

- (A) Biosolids Testing -- the following required tests shall be performed by a certified laboratory as authorized by the Agricultural Commissioner and provided to the Agricultural Commissioner by the applicator:
 - 1) Routine
 - Unless otherwise directed by the Agricultural Commissioner, each biosolids load shall be sampled at the staging area prior to land spreading by the applicator, with volume-integrated samples which shall be analyzed for land application parameters as follows:

Total Nitrogen-Kjeldahl (TK-N), Ammonia-Nitrogen, Nitrate Nitrogen, Organic-Nitrogen, Total Potassium (K), Total Phosphorus (P), Total Copper (Cu), Total Lead (Pb), Total Cadmium (Cd), Total Zinc (Zn), Total Nickel (Ni), pH (1:1v), Total Solids, Total Boron (B), Total Arsenic (As), Total Chromium (Cr), Total Molybdenum (Mo), Total Selenium (Se), and Total Mercury (Hg).

2) Annual Biosolids Monitoring

Representative samples from each Wastewater Treatment Plant that generates biosolids to be land spread shall be composited and analyzed a minimum of twice per year, unless otherwise indicated, for the following, unless the biosolids have been stockpiled longer than five (5) years, in which case additional testing may be required. The Agricultural Commissioner may require additional testing for specific constituents (e.g., radioactivity) if it determines that wastewater treatment plants may be processing waste containing those contaminants.

<u>Constituent</u>	<u>Units</u> ¹
Percent Total Solids (monthly)	%
Nitrogen (monthly):	
Ammonia	mg/kg
Nitrate	mg/kg
Total Kjeldahl	mg/kg
Organic	mg/kg
Chlorinated Pesticides and PCB's* (EPA Method #8080)	
Base/Neutral Extractable Organic Priority Pollutants* (EPA Method #8270)	
Phosphorus (monthly)	mg/kg
Potassium (monthly)	mg/kg
pH (monthly)	
Heavy Metals (monthly)	mg/kg (for each metal)

[includes Arsenic, Cadmium,
Chromium, Copper, Lead,
Mercury, Molybdenum, Nickel,
Selenium, and Zinc]

Boron	mg/kg
Fecal Coliform	MPN/gram dry weight
Dioxin (EPA #8290)*	pg/L
Furan*	----
Asbestos*	% fibers

¹ To be reported as dry weight corrected for percent moisture.

* The Agricultural Commissioner may require testing at a frequency no greater than required by the generator's current permits issued through the Regional Water Quality Control Board. The applicator may be required to perform these tests in instances where the generator is exempted from testing by the RWQCB. These may be required by the Agricultural Commissioner at a frequency rate of no more than once per year, unless significant concentrations are detected.

3) Class A Pathogen Requirements

Records and biosolids analyses results shall be made available to the Agricultural Commissioner for the purpose of verifying Class A pathogen compliance.

(B) Soil Testing

Soils on application sites will be sampled and analyzed by the applicator through a certified laboratory authorized by the Agricultural Commissioner for metals and cation exchange capacity prior to the initial land spread of biosolids and each subsequent application.

1) Sampling Procedure

The surface soil will be sampled at a depth of four (4) to six (6) inches. A sample will consist of individual cores taken from scattered locations throughout the entire site. Individual cores will be collected so as to be representative of the entire field. Surface litter will be removed before collecting a core, to ensure that mineral soil is sampled. Obvious anomalies such as wet spots, turn rows, and minor soil textural inclusions will not be sampled. The number and location of core samples and soil samples will be determined by the

Agricultural Commissioner prior to sampling and will depend on the field size and soil types.

2) Analysis

Soils will be analyzed for the following parameters:

Olson's extractant for Phosphorus, Ammonium Acetate for Potassium, exchangeable saturated based extract pH, Calcium, Magnesium, Sodium, Total Zinc, Total Iron, Total Copper, Total Manganese, Total Cadmium, Total Chromium, Total Lead, Total Mercury, Total Nickel, Total Sulphur, and Total Selenium.

(C) Vegetation

Food chain vegetation shall be required to be sampled as determined by the Agricultural Commissioner.

(D) Vadose Zone Monitoring

Vadose Zone Monitoring shall be conducted pursuant to Regional Water Quality Control Board requirements.

(E) Laboratory Testing

All biosolids, water, soil, and vegetation analyses must be conducted by a California State Department of Health Services accredited laboratory, pursuant to Health and Safety Code Section 1010, with all costs associated with sampling paid by the applicant. Laboratory test methods shall be approved by the EPA and/or the Regional Water Quality Control Board.

SECTION 13. REPORTING:

(A) Application Records

Application records shall be prepared and maintained by the applicant and made available for inspection by the Agricultural Commissioner. A record shall be maintained of each load of biosolids received, the load size, time of day, the application site where the load was taken, the source of the biosolids, and the land spreading method.

(B) Site Reporting (Post-Application)

Within sixty (60) days of land spreading, the applicant shall submit site reports to the Agricultural Commissioner, as set forth in (C) below, for each field that received biosolids.

The site report shall state the following for each field:

- 1) Location of field.
- 2) Number of acres.
- 3) Tons of biosolids per acre applied.
- 4) Soil cation exchange capacity.

- 5) Types of crops grown on land which biosolids were applied.
- 6) Amount of biosolids applied to date for the year.
- 7) Lifetime amount of biosolids applied.
- 8) The following metals applied current year to date, total applied, and lifetime limit where applicable, pursuant to

40 CFR Part 503 or Regional Water Quality Control Board standards:

- Lead
- Copper
- Nickel
- Mercury
- Cadmium
- Zinc
- Arsenic
- Chromium
- Molybdenum
- Boron
- Selenium

(C) Report Submission:

- 1) The applicant shall submit monthly reports to the Agricultural Commissioner during land spreading operations indicating the total amount of dry tons of biosolids land spread to each site.
- 2) Site Reports shall be submitted to the Agricultural Commissioner within the following time lines:
 - (a) Within sixty (60) days of the last application of biosolids to a field or site for one time application operations; or
 - (b) Within sixty (60) days of the last biosolids application for the calendar year for ongoing application operations.
- 3) Annual reports shall be submitted by 1 (one) March for the preceding calendar year. The report shall include: a summary of the biosolids quantity (tons), biosolids source, and location of application for each

field on which biosolids were applied during the preceding calendar year; the date(s) of the Site Report(s) applicable to each application; and a statement concerning compliance with land use restrictions identified in this chapter.

- 4) The monitoring data in the reports shall be arranged in tabular form so that the date, the constituents, and the concentrations are readily discernible. The results of any monitoring conducted more frequently than required shall be reported to the Agricultural Commissioner.

TULARE COUNTY BIOSOLIDS LAND SPREADING REGULATIONS

-- DECLARATIONS

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SECTION 13. REPORTING (Pages 21-23)

ORDINANCE NO.

AN ORDINANCE AMENDING SECTIONS 4-25-1000, 4-24-1005, 4-25-1010, 4-25-1020, 4-25-1025 OF ARTICLE 1, SECTION 4-25-1100 OF ARTICLE 2, AND SECTION 4-25-1705 OF ARTICLE 7, OF CHAPTER 25 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO AGRICULTURAL APPLICATION OF SEWAGE SLUDGE.

THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE ORDAINS AS FOLLOWS:

Section 1. Section 4-25-1000 is amended to read as follows:

4-25-1000 PUPROSE AND INTENT:

It is the purpose and intent of this chapter to regulate the agricultural land application of sewage sludge in the unincorporated areas of Tulare County, ~~in a manner that is consistent with agronomic rates and that protects public health and safety, water quality, and agricultural markets. Sewer sludge may contain heavy metals, pathogenic organisms, and chemical pollutants. To protect critical groundwater quality and food production areas, this chapter provides local control of sewer sludge spread on land and assures that safe land spreading practices of such sludge will be observed in order to protect the public health, safety and welfare.~~ ground and surface waters, agricultural markets, and sensitive wetland and habitat areas. To protect critical groundwater basins and food production areas, this chapter provides local control and assures the safe land application practices of only the safest category of sewage sludge will be land applied in Tulare County. To the extent that this chapter allows the land application of EQ-Compost, it is not intended to take the place of standards imposed upon the land application of sewage sludge by state law and by the application rules, regulations, orders, and requirements of the State Water Resources Control Board and the California Regional Water Quality Control Board. The County recognizes that Exceptional Quality Sewage Sludge which has been composted, defined in this chapter as "EQ-Compost", is considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags, or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land.

It is not the intent of this Chapter to regulate the land application of EQ-Compost.

Section 2. SECTION 4-25-1005 is amended to read as follows:

4-25-1005 DEFINITIONS:

Whenever in the Chapter the following terms are used, they shall have the meanings respectively ascribed to them in this section unless the context clearly dictates otherwise:

(a) "Agricultural Commissioner" means the Tulare County Agricultural Commissioner/Sealer or his or her designated representative or deputy.

(b) "Applicator" means any person, company, organization, or other legal entity engaged, or about to become engaged, with the placement or spreading of biosolids on land at a controlled rate for the purpose of and enhancing the growth of plants, in accordance with the provisions of this Chapter.

(c) "Biosolids" means sewage sludge which

(1) complies with the Class A biosolids standards in the Federal Rule 40 CFR 503.32(a) or has been stored for at least eighteen (18) months and has been tested to verify it meets the Class A biosolids standards in 40 CFR 503.32(a), and

(2) contains constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13, Table 1 and Table 3, as applicable.

(d) "Biosolids, Land Spreading of" means the beneficial use of biosolids generated by wastewater treatment plants as a soil amendment or fertilizer provided that the biosolids are applied at an agronomic rate and in conformance with Federal Rule 40 CFR 503, Subpart B. Methods of beneficial use shall be limited to incorporation of biosolids into the soil so that the biosolids will either condition the soil or fertilize crops or vegetation grown in the soil.

(e) "Biosolids Land Spreading Site Plan" means map(s) and written information providing specific details on the locational and physical characteristics of a site on which biosolids are to be land spread, in accordance with an approved Biosolids Management Permit.

(f) "Biosolids Management Permit" means a written plan that specifies the method of application of biosolids in conformance with the provisions of this Chapter and the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.

(g) "County" means the County of Tulare, State of California.

(h) "County's Biosolids Land Spreading Regulations" means those regulations adopted from time to time by resolution of the Tulare County Board of Supervisors pertaining to and setting standards and requirements for the land spreading of ~~sewer~~ sewage sludge and biosolids in the unincorporated areas of the County of Tulare.

(i) "EPA" means the U.S. Environmental Protection Agency.

(j) "Federal Rule" or "40 CFR Part 503" means the "Standards for the Use or Disposal of Sewage Sludge, 40 CFR Part 503, Final Rule" adopted by the U.S. Environmental Protection Agency (EPA) on February 19, 1993, in Title 40 of the Code of Federal Regulations Part 503 as amended from time to time.

(k) "Generator" means a person (as defined herein) who generates biosolids during the treatment of domestic sewage in a treatment works.

(l) "Nutrient Management Plan" means the management strategy for nitrogen, phosphorous, potassium, and heavy metals developed for a given site based on the nutrients and metal concentrations in the biosolids to be applied, the background levels in the soil, nutrient requirements of the crop to be planted, and any additional amendments or fertilizers.

(m) "Person" means any person, firm, business, city, county (other than the County of Tulare), district, special district, including a water district, a Public Utility District, sole proprietorship, partnership, joint venture, trust, association, or corporation whether for profit or non-profit.

(n) "~~Sewer~~ Sewage or-Sewage Sludge" means a solid, semi-solid, or liquid residue generated during the treatment of sewage in a treatment works or sewage treatment plant. Sewage sludge includes, but is not limited to, septage, scum, or solids removed in primary, secondary, or advanced wastewater treatment processes, and any material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during primary treatment of sewage in a treatment works. As used in this ordinance, the term "Sewage Sludge" does not include ~~sewer~~ sewage sludge to be land applied which has been diluted through composting and is distributed in bags or other similar containers not exceeding one hundred (100) pounds for landscaping purposes or for home use and has been classified as 'exceptional quality biosolids products' in compliance with all applicable State and Federal rules and regulations. "Sewage or Sewage Sludge" does not include EQ-compost, as defined herein

(o) “Active Compost” means compost feedstock that is in the process of being rapidly decomposed and is unstable. Active compost is generating temperatures of at least 50 degrees Celsius (122 degrees Fahrenheit) during decomposition, and is releasing carbon dioxide at a rate of at least 15 milligrams per gram of compost per day, or the equivalent of oxygen uptake.

(p) “EQ-Compost or Exceptional Quality Compost” means an organic, composted material containing sewage sludge which means all of the following:

- 1) the ceiling concentration standards set forth in Title 40, Code of Federal Regulations, section 503.13(b)(1).
- 2) the pollutant concentration standards set forth in 40 CFR section 503.13(b)(3).
- 3) one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a).
- 4) one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1)-(8).
- 5) which has undergone the process to further reduce pathogens as described in section 17868.3 of Title 14 of the California Code of Regulations.
- 6) has undergone the process to further reduce maximum metal concentrations as described in section 17868.2 of Title 14 of the California Code of Regulations.
- 7) has undergone the process to further reduce physical contamination limits under section 17868.3.1 of Title 14 of the California Code of Regulations.

(q) “EQ-Sewage Sludge or Exceptional Quality Sewage Sludge” means sewage sludge which meets all of the following:

- 1) the ceiling concentration standards set forth in 40 CFR section 503.13(b)(1)
- 2) the pollutant concentration standards set forth in 40 CFR section 503.13(b)(3).
- 3) one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a)
- 4) and one of the vector attraction reductions options set forth in 40 CFR sections 503.33(b)(1)-(8).

Section 7. SECTION 4-25-1010 is amended to read as follows:

4-25-1010 TIME FOR COMPLIANCE:

No person shall spread biosolids or ~~sewer~~ sewage sludge within the unincorporated areas of Tulare County following the effective date of this Chapter except in compliance with all the terms and requirements of this Chapter.

Section 8. SECTION 4-25-1020 is amended to read as follows:

4-25-1020 NOT EXCLUSIVE REGULATION:

This chapter is not the exclusive regulation of the land spreading of ~~sewer~~ sewage sludge. It shall supplement and be in addition to the other regulating statutes and ordinances heretofore or hereinafter adopted by the State, County, or any other legal entity or agency having jurisdiction.

Section 9. SECTION 4-25-1025 is amended to read as follows:

4-25-1025 SEVERABILITY:

If any clause, provision, sentence, or paragraph of this Chapter, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstances, such invalidity shall not ~~effect~~ affect the other provisions of this Chapter, which shall still remain in effect, and to its end, it is hereby declared that the provisions of this Chapter are severable.

Section 10. SECTION 4-25-1100 is amended to read as follows:

4-25-1100 PROHIBITIONS:

- (a) Land application of untreated and/or domestic septage is prohibited.
- (b) No ~~sewer~~ sewage sludge shall be land spread unless it qualifies as biosolids as herein provided and in accordance with the County's Biosolids Land Spreading Regulations adopted from time to time by resolution.
- (c) Land application of biosolids classified as 'hazardous' or 'designated', as those terms are defined in Section 2521(a) and Section 2522(a) of Title 23, California Code of Regulations, is prohibited.
- (d) Biosolids to be land applied in Tulare County shall be contained at the generator's wastewater treatment plant site and shall not be transported until a Biosolids Management Permit is issued by the Agricultural Commissioner for the proposed site where such biosolids will be applied.
- (d) The land spreading of biosolids conducted in any way which causes a public or private nuisance or degrades groundwater or surface water is hereby prohibited.

(e) EQ-Compost or Exceptional Quality Compost, as defined above, may be applied without a permit from the Agricultural Commissioner under Article 3 of this Chapter and does not need to conform with the County's Biosolids Land Spreading Regulations. However, a grower must maintain for three (3) years records showing the EQ-Compost meets the requirements set out in section 4-25-1005(s).

(f) EQ Sewage Sludge or Exceptional Quality Sewage Sludge, as defined above, may be applied only when authorized by a Biosolids Management Permit under Article 3, and must also be authorized by an Administrative Use Permit as required by Chapter 3, Section 15 of the Tulare County Zoning Ordinance.

Section 11. SECTION 4-25-1705 is amended to read as follows:

4-25-1705 COMPLIANCE WITH FEDERAL AND STATE LAWS AND LOCAL REGULATIONS:

(a) Land spreading of biosolids shall comply with all federal and state laws and regulations, including 40 CFR Part 503 of the Code of Federal Regulations or its revisions; however, the County Biosolids Land Spreading Regulations may require more restrictive concentrations for metals than the limits set forth in 40 CFR Part 503, based on conditions specific to Tulare County.

(b) No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all requirements of the California Regional Water Quality Control Board. This section shall apply to both EQ-compost and Exceptional Quality Sewage Sludge.

(c) No land spreading of biosolids shall be permitted until the generator and applicator demonstrate compliance with all of the requirements of this Chapter and the County's Biosolids Land Spreading Regulations.

Section 12. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof, and prior to the expiration of fifteen (15) days from the passage hereof [a summary] shall be published once in the _____, a newspaper printed and published in the County of Tulare, State of California, together with the names of the Board of Supervisors voting for and against the same.

THE FOREGOING ORDINANCE was passed and adopted by the Board of Supervisors of the County of Tulare, State of California, on the ____ day of _____, 20__, at a regular meeting of said Board duly and regularly convened on said day by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Approved as to Form:
County Counsel

By _____
Deputy
Matter # 20181664

MPW/20181664/4/10/2019/1307277

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE AMENDING SECTIONS 4-25-1000, 4-24-1005, 4-25-1010, 4-25-1020, 4-25-1025 OF ARTICLE 1, SECTION 4-25-1100 OF ARTICLE 2, AND SECTION 4-25-1705 OF ARTICLE 7, OF CHAPTER 25 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO AGRICULTURAL APPLICATION OF SEWAGE SLUDGE.

SUMMARY OF PROPOSED ORDINANCE

The ordinance adds definitions of Exceptional Quality Sewage Sludge and Exceptional Quality Compost. In addition, this ordinance amendment specifically permits the land application of EQ-Compost or Exceptional Quality Compost by right. Furthermore, an individual must receive a Biosolids Management Permit prior to spreading EQ-Sewage Sludge or Exceptional Quality Sewage Sludge on agricultural lands.

This ordinance also makes minor typographical changes.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized will be considered for second reading by the Tulare County Board of Supervisors on _____, 20__, at a regular meeting of said Board. At least five (5) days prior to that date, a certified copy of the full text of the proposed ordinance shall be posted in the office of the Clerk of the Board of Supervisors and shall be available for public inspection at that location.

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors
of the County of Tulare

By: _____
Deputy

ORDINANCE NO. _____

PURSUANT TO GOVERNMENT CODE SECTION 25124, THE FOLLOWING IS A SUMMARY OF AN ORDINANCE AMENDING SECTIONS 4-25-1000, 4-24-1005, 4-25-1010, 4-25-1020, 4-25-1025 OF ARTICLE 1, SECTION 4-25-1100 OF ARTICLE 2, AND SECTION 4-25-1705 OF ARTICLE 7, OF CHAPTER 25 OF PART IV OF THE ORDINANCE CODE OF TULARE COUNTY, PERTAINING TO AGRICULTURAL APPLICATION OF SEWAGE SLUDGE.

SUMMARY OF PROPOSED ORDINANCE

The ordinance adds definitions of Exceptional Quality Sewage Sludge and Exceptional Quality Compost. In addition, this ordinance amendment specifically permits the land application of EQ-Compost or Exceptional Quality Compost by right. Furthermore, and individual must receive a Biosolids Management Permit from the Agricultural Commissioner and an Administrative Use Permit from the Resource Management Agency prior to spreading EQ-Sewage Sludge or Exceptional Quality Sewage Sludge on agricultural lands.

This ordinance also makes minor typographical changes.

The effective date of these changes will be thirty (30) days after adoption by the Board of Supervisors.

The ordinance herein summarized was adopted by the Tulare County Board of Supervisors on _____, 20__, at a regular meeting of said Board.

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNTY OF TULARE

By: _____
Chairman, Board of Supervisors

ATTEST: JASON T. BRITT
County Administrative Officer/
Clerk of the Board of Supervisors

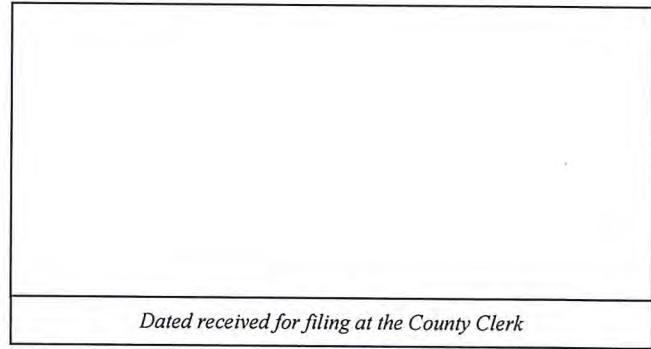
By: _____
Deputy Clerk

Notice of Exemption

Fee Exempt per Government Code Section 6103

To: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

Tulare County Clerk
Room 105, Courthouse
221 South Mooney Boulevard
Visalia, California 93291



Dated received for filing at the County Clerk

Lead Agency: County of Tulare Resource Management Agency
5961 South Mooney Blvd.
Visalia, CA 93277
Ph: (559) 624-7000
Attn: hguerra@co.tulare.ca.us

Applicant: County of Tulare Resource Management Agency
2800 W Burrell Ave.
Visalia, CA 93277
Ph: (559) 624-7000

Project Title: Ordinance updates amending Chapter 25 of Part IV of the Tulare County Ordinance Code, pertaining to Agricultural Application of Sewage Sludge and Chapter 3 of Section 15 of the Tulare County Zoning Ordinance

Project Location - Specific: N/A, throughout all the unincorporated areas of the County of Tulare, CA

Project Location – General: Throughout all the unincorporated areas of the County of Tulare, CA

Project Location City: N/A

Project Location County: Tulare

Description of Nature, Purpose, and Beneficiaries of Project: The Tulare County Agricultural Commissioner/Sealer is requesting that the County of Tulare amend Chapter 25 of Part IV of the Tulare County Ordinance Code, pertaining to Agricultural Application of Sewage Sludge and Chapter 3 of Section 15 of the Tulare County Zoning Ordinance.

Under the current ordinance (which was adopted in 1996), individuals may neither apply nor spread biosolids on agricultural land without a Biosolids Management Permit from the Agricultural Commissioner. The term "biosolids" is defined as sewage sludge that has undergone processes to reduce pathogens, pollutants, vectors, metal concentrations, and other physical contaminants. Under federal law, once sewer sludge undergoes these processes, the sewer sludge is reclassified as a "Class A Biosolid".

Since the ordinance went into effect, neighboring Counties (e.g., Fresno and Kings) have allowed the land application of Exceptional Quality Biosolids (or EQ-compost) by right, that is, without requiring additional permitting. The EQ-Compost must meet the ceiling concentration standards, the pollutant concentration standards, the pathogen reduction alternatives, and vector reduction options set forth in the Title 40, Code of Federal Regulations Part 503. In addition, the EQ-Compost must also reduce pathogens according to state law (Title 14, California Code of Regulations, section 17868.3). In short, sewage sludge that is treated to reduce pathogens, pollutants, vectors, and metallic concentrations undergoes all these processes meets the definition of "compost" and may be applied to land.

Accordingly, the Tulare County Agricultural Commissioner has proposed the related zoning and non-zoning ordinance amendments in order to allow the land-spreading of EQ-Compost to agricultural crops without a Biosolids Management Permit. The proposed ordinances define EQ-Compost as "organic, composted material containing sewage" (which is similar to the definitions of EQ-Compost used by Fresno and of Kings Counties), which meets all of the following criteria:

- (1) The ceiling concentration standards set forth in Title 40, Code of Federal Regulations, section 503.13(b)(1);
- (2) The pollutant concentration standards set forth in 40 CFR section 503.13(b)(3);
- (3) Has undergone one of the Class A pathogen reduction alternatives set forth in 40 CFR section 503.32(a);
- (4) Has undergone one of the vector attraction reduction options set forth in 40 CFR sections 503.33(b)(1)-(8);
- (5) Has undergone the process to further reduce pathogens as described in section 17868.3 of Title 14 of the California Code of Regulations;
- (6) Has undergone the process to further reduce maximum metal concentrations as described in section 17868.2 of Title 14 of the

California Code of Regulations; and

- 7) Has undergone the process to further reduce physical contamination limits under section 17868.3.1 of Title 14 of the California Code of Regulations.

Following approval by the Tulare County Board of Supervisors, the proposed ordinance amendments will allow the application of EQ-Sewage Sludge with an Administrative Use Permit from the Resource Management Agency (RMA) and a Biosolids Management Permit from the Agricultural Commissioner. These ordinance amendments are intended to, in effect, "carve-out" EQ-Compost from the definition of Biosolids and allow land application by right. To reiterate, EQ-Sewage Sludge is defined as the sewage sludge that has met the Federal requirements on biosolids, but has not undergone any of the processes required by State law. It is noted that the proposed amendments have received recommendations of approval from the Tulare County Agricultural Advisory Committee. Ultimately, the use of Class A Biosolids as a soil amendment would augment agricultural productivity, provide the use of an environmentally safe material, and would expand the availability of composting material options.

Excluded / Exempt Status:

- Ministerial (Sec. 21080(b)(1); 15268)
- General Rule: **CEQA guidelines 15061(b)(3)**
- Categorical Exemption:
- Statutory Exemptions:

Reasons why project is excluded/exempt: The proposed project is exempt from CEQA under both the General Rule exemption.

CEQA Guidelines Section 15061(b)(3) sets forth the general rule exemption, which provides that CEQA only applies to projects which "have the potential for causing a significant effect on the environment; where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." As noted earlier, biosolids that meet the standards, criteria, definitions, etc., under federal and state law are considered as a "Class A Biosolid" and can be applied as composting material.

Thus, the adoption of the ordinance amendments does not permit any new physical construction or other physical activity that was not previously permitted under the County's ordinances. The spreading of composting material is currently allowed; as such, the use of Class A biosolids merely provides another option of the type of composting material which can be applied for agricultural purposes. The action, therefore, will not have the potential to result in individual or cumulative significant effects on the environment. Furthermore, no special circumstances exist that would create a reasonable possibility that approving the ordinance amendments would have a significant effect on the environment. Thus, adoption of the proposed ordinance amendments is exempt from review under CEQA pursuant to CEQA Guidelines Section 15061(b)(3).

Name of Public Agency Approving Project: County of Tulare Board of Supervisors

Project Planner/Representative: Aaron Bock, Dir, Economic Dev. & Planning Branch Telephone: 559-624-7050

Signature: _____ Date: _____ Title: Chief Environmental Planner
Hector Guerra (559) 624-7121

Signature: _____ Date: _____ Title: Director and Environmental Assessment Officer
Reed Schenke P.E. (559) 624-7000

X Signed by Lead Agency