

**California Regional Water Quality Control Board
San Francisco Bay Region**

RESPONSE TO WRITTEN COMMENTS

**On the Tentative Order for AMENDMENTS TO WASTE DISCHARGE
REQUIREMENTS FOR DISPOSAL AND ONSITE USE OF NON-DESIGNATED /
NON-HAZARDOUS CONTAMINATED SOILS AND RELATED WASTES AT
ACTIVE MUNICIPAL SOLID WASTE LANDFILLS**

The Regional Water Board received written comments on a tentative order distributed for public comment from two of the waste disposal companies that own and operate solid waste landfills in the Region, Waste Management Corp (WMC) and Republic Services. The comments are presented below in black and red font and followed by a staff response in blue font. The complete comment letters can be requested in electronic format by contacting the Regional Water Quality Control Board.

A. Comments from Republic Services

1. Finding 4: “The current WDR’s for the Ox Mountain Landfill, revised in October 2018, allow for the acceptance of designated waste in lined cells meeting the criteria for Class II landfills (referred to as the Subtitle D landfill in the WDR). This correction should be included in the last paragraph of Finding #4 which lists Class III landfills with WDR’s that allow for acceptance of designated wastes in lined cells meeting the criteria for Class II landfills. Prohibition 2 of the Ox Mountain WDR’s indicate that designated wastes and wastes requiring special handling cannot be disposed of in the original landfill and infers that they are to be placed in the Subtitle D landfill.”

Water Board Staff response:

Thank you for pointing out that Ox Mountain Landfill has some cells that are designed to accept Class II wastes, and that this is allowed under the 2018 site-specific WDRs for the Ox Mountain Landfill. The changes you requested have been made in Finding 5 and in Table 1.

2. “Table 1 states that Newby Island Landfill is in Alameda County. This should be corrected to Santa Clara County. As noted in the comments above on Finding #4, the current WDR’s for the Ox Mountain Landfill allow for the acceptance of designated waste in Subtitle D lined cells which meet the criteria for Class II landfills. We request that Table 1 be edited to illustrate this.”

Water Board staff response:

Table 1 has been corrected to show that Newby Island Landfill is in Santa Clara County, and an asterisk has been added beside the Class III classification for Ox Mountain Landfill to indicate that Ox Mountain has certain disposal cells that are authorized to accept Class II wastes.

3. Finding 8: “The sixth line of this finding references a list of contaminants that if are found to be “below” threshold values could cause the material to be classified as a Class I or Class II waste. Unless we are misinterpreting the intent of the sentence, an appropriate edit to this sentence would be changing this term to “above” threshold values.

Water Board staff response:

We believe you are misinterpreting the intent of the sentence. If we change the word “below” to “above” as you recommend, it would mean that the term “contaminated soils” refers in this Order only to soils that would be classified as hazardous or designated (Class I or II) wastes, but we mean for this Order to apply to soils that are non-hazardous and non-designated soils; this is explicitly stated in the title of the Order. To be clear, the Order applies to soils that contain regulated contaminants, but at concentrations below the threshold values that would render them hazardous or designated.

4. Findings 10, 15 & 16 - Reference to Contaminated Soils as Alternative Daily Cover: “The Tentative Order refers in a number of instances to contaminated soil being considered alternative daily cover. 27 CCR Section 20680 (d) establishes that contaminated soils defined in 14 CCR 17361(b) are considered earthen material for the purposes of daily cover, and not ADC, if approved for use by the RWQCB and other agencies. These soils may also be used as intermediate cover and daily cover under certain circumstances.

This is a minor clarification and Board staff can choose to address it in the Tentative Order if they wish. The industry has typically not referred to any type of soil material received at landfills as alternative daily cover and we have reserved that term for items such as auto shredder waste, tarps, C&D, dried biosolids, etc.”

Water Board staff response:

We agree with your point that under title 27, earth materials such as soils would not be considered “alternative” cover materials and that term is reserved for non-earthen materials. In fact, Finding 11 of the Tentative Order explains this distinction. Please note also that Findings 15 & 16 are under the heading “Related Wastes” and these findings do not refer to soils but to other related materials that are often used as alternate daily cover. We do not believe any changes to the Tentative Order are necessary.

5. Finding 18: “Water Quality order No. 97-03-DWQ was superseded and updated by order No. 2014-0057-DWQ on April 1, 2014. This order does not require testing for specific

conductance as stated in Finding 18. It does however require landfills to test for iron (Fe), and site specific parameters as may be applicable to receiving waters with 303(d) listed impairments or approved TMDLs.”

Water Board staff response:

Thank you for pointing out that Finding 18 referred to the old SWRCB General Stormwater Order, which was superseded by Order No. 2014-0057-DWQ. Finding 18, as well as Section D of the Tentative Order, have been changed to refer to, and require compliance with, the new Industrial General Order for stormwater protection.

6. Finding 23: “There are omissions in Finding #23 that warrant correction. In the first sentence, “CWC §13263 of the provides...” Given the omission, the intent of this sentence is unclear.
In the second sentence, “...for those active landfills in Table and finds...” Should be corrected to “...for those active landfills in Table 1 and finds...”

Water Board staff response:

Thank you for catching those omissions. The corrections have been made in Finding 23.

7. Finding 5: “We understand that the intent of the Order is to amend each individual WDR for the MSW Landfills listed in Table 1. Our understanding is that there will not be individual amendments to each of the WDR’s for the landfills listed. In short, the final Order that is adopted will serve as a blanket amendment to the WDR’s for the landfills that are listed. Please confirm that our understanding of the process is correct.”

Water Board staff response:

Your understanding is correct. This is intended to be a blanket amendment for the active landfills in Region 2 that accept contaminated soils. We do not plan to re-issue the site-specific WDRs for each active landfill to address this issue.

8. Finding 14: “This finding restricts soils used for construction of the final cover foundation layer to those qualifying as Unrestricted Onsite Use based on the criteria in Section C-2. Given site-specific considerations including hydrogeologic setting and final cap design, we would ask that the board incorporate language in this section to allow the development of landfill-specific criteria for soils used in the final cover foundation layer. To accomplish this, the Board could simply reference the methodology described in Section C.4 should a landfill operator desire to make a case for soils that may not meet the criteria outlined for Unrestricted Onsite Use.”

Water Board staff response:

One limitation of the Tentative Order that you reviewed was that it included only two categories of contaminated soils: those that could be used anywhere on site (i.e., Unrestricted Onsite Use) and those that, due to higher levels of contamination, would have to be placed in a Composite-Lined Cell that complies with the Subtitle D

requirements for cell construction. This differed from the general orders issued by the Los Angeles and Santa Ana Regional Water Boards, which include an intermediate category of contaminated soils, i.e. soils that could be placed in an unlined disposal cell. We had excluded this intermediate category of contaminated soils under the incorrect assumption that there were no unlined cells still in use in the San Francisco Bay Region's landfills. However, at the request of other parties that submitted comments on the Tentative Order, we have included this intermediate category of soils (see Finding 14 and Section C.3) in the Revised Tentative Order.

With the inclusion of the intermediate category (soils that can be placed in unlined cells) we believe it would be suitable to use soils that meet this category (rather than the more restrictive category of soils suitable for Unrestricted Onsite Use) for use in constructing the foundation layer of the final cover. However, soils used in the uppermost, vegetative layer of the final cover would still have to meet the criteria for unrestricted onsite use.

9. Section C.1, Waste Acceptance Program (WAP): "This section directs each affected landfill to develop and implement within 90 days a Waste Acceptance Program (WAP), with approval from the Executive Officer of the Regional Board, prior to accepting contaminated soils. While this section does offer a pathway to continue acceptance of contaminated soils under an existing WAP during the 90-day period after the Order is adopted, we are concerned that the timeline may be too restrictive and could result in interruption to a landfill's ability to accept contaminated soils during the WAP approval process. We would suggest that the language in this section be modified to require submittal of the WAP within 90 days of the adoption of the Order and allow acceptance of contaminated soils to continue under existing acceptance criteria until the WAP is approved by the Executive Officer."

Water Board staff response:

We have changed the Tentative Order to extend the time that the Dischargers may continue to operate under an existing WAP from 90 to 120 days to address the commenter's concerns. The Water Board must balance the desire for uninterrupted landfill operations with its duty to oversee landfill operations. We believe extending the days to operate under existing WAPs strikes a proper balance. We also understand that some disposal companies will be required to submit multiple WAPs.

10. Section C.5, Sampling Frequency: "The Order proposes the following sampling frequency for acceptance of contaminated soils:
 - Less than 100 cy - 2 samples
 - 101 to 500 cy - 4 samples
 - 501 to 2,500 cy - 6 samples
 - For each 500 CYs greater than 2,500 - 1 additional sample

Republic's current practice in terms of characterization of material at most of our Northern California facilities has been to approach sampling frequency on a case by case

basis. Our waste approvals group for Northern California along with our corporate waste approvals group based in AZ, provide a detailed review and assess multiple factors for each specific project. These factors include history of property use, impacted amount of material, types of contaminants that are likely to be present on the property, sampling grid layout for spatial distribution, concentration levels of constituents of concern as well as other site-specific factors.

This approach has worked well from a compliance standpoint and provided some flexibility to generators in terms of characterizing a given project site. Factors such as onsite material storage capability in terms of space for stockpiling and sampling come into play quite often and may not allow for application of a predetermined sampling protocol. Space constraints may also require in-situ sampling which if performed properly can provide more than adequate characterization of a project site. Sampling frequencies that may be less frequent or tailored to a given project site would allow for some flexibility in situations where obtaining the number of samples as outlined above may not be possible.

Should the Board disagree with this approach, we would suggest employing the sampling protocol that has been in use at the Vasco Road Landfill since 2007 that is part of our Waste Acceptance Guidelines for the facility as approved by the Board. These are listed in the table below.

Additionally, we request that if new sampling frequency protocol are established, that they go into effect at a future date so that projects that have currently been characterized will not have to go back and retest if the sampling frequency that has been utilized is not in alignment with what is ultimately approved in the final Order. It would be helpful if projects that have already been characterized were grandfathered in and that all projects that have not been characterized follow the sampling criteria that are ultimately adopted in the Order. Lastly, you will notice that the sample methodology noted below utilizes four-point composites and not grab samples. We believe this approach provides a better representation of the material and allows for a slightly reduced sampling frequency versus what is proposed in the Tentative Order.

A final thought to consider on this point is that it is ultimately up to the landfill owner and operator to determine whether any material being accepted at the facility is allowed under its entitlements. One way to approach sampling frequency may be for the Board to suggest a “preferred” set of protocol but to not mandate it. This keeps the Board out of the business of determining what an adequate sampling characterization for all sites should be. Given some of the complexities and variations that are encountered on project sites, this could be a means of limiting liability for the Board while providing some level of guidance to those facilities seeking assistance. While not our purview to make the final decision on this issue, were it our company being placed in a similar position we would leave the responsibility of determining whether material was adequate for receipt at a given site to the owner of the facility and not step into the line of being a responsible party in that decision process.”

Water Board staff response:

We appreciate the well-crafted comment, and we recognize the need for some flexibility when characterizing wastes for disposal. However, we also see waste profiling as an area where more consistency and uniformity are needed. We also understand that the sampling frequency proposed in the Tentative Order are more robust than other commonly used approaches, such as DTSC's requirements for characterizing clean fill; however, the DTSC's prescribed soil sampling frequency is for soils presumed to be clean, whereas the sampling frequency in our Tentative Order is for soils presumed to be contaminated; therefore, a more robust approach is warranted.

We agree with your point that it is ultimately the Discharger's responsibility for determining what wastes can or cannot be accepted under a facility's approved WAP. Our desire is to establish a consistent, rigorous protocol for profiling contaminated soils to determine how soils will need to be managed once accepted for disposal or onsite use. We believe the appropriate approach is to issue our prescribed sampling frequency (as described in the Tentative Order) as the default protocol (what we will accept with no further discussion needed), but allow each Discharger the opportunity to propose an alternative sampling protocol should flexibility be needed due to specific circumstances. We have added language to the Revised Tentative Order to allow Dischargers to propose an alternative protocol for Executive Officer approval.

11. Section D, Stormwater Management: "Consistent with our comments on the Corrections to Finding 18, Section D references Water Quality order No. 97-03-DWQ, which was superseded and updated by order No. 2014-0057-DWQ on April 1, 2014. Further, as written it is unclear if this section intends to modify the Industrial General Permit (IGP), which is administered by the State Water Resources Control Board, or implement a parallel monitoring program through the WDR. In either case, the requirements of this section seem to be duplicative with the requirements already in place in the 2014 IGP. The new IGP is more protective and comprehensive than the order it replaced and includes requirements for regular SWPPP updates based on an Annual Evaluation, which includes updates to the list of required testing parameters based on a Pollutant Source Assessment.

We believe that the board's intent in protecting stormwater is already fully realized in the 2014 IGP order, and the requirements in Section D may be duplicative with efforts already completed under the state-administered program. Additionally, given that the WAP for the landfills are due within 90 days after adoption of this Order, we request that the revised SWPP submission date be 120 days after adoption of this Order. Republic has four landfills in the San Francisco Bay Region and want to make sure that we have ample time to prepare quality submittals for all the facilities."

Water Board staff response:

As with Finding 18, we have revised Section D to reference the 2014 Industrial General Permit for stormwater rather than the superseded 1997 Order.

It was not our intent to establish a parallel or duplicative set of requirements for stormwater protection in this Tentative Order. We have revised Section D to reference the requirement for each active landfill covered by the Order to comply with Order No. 2014-0057-DWQ.

Please note that in response to a suggestion from another commenter, we have changed the compliance time for SWPPP submittal from *90 days from Order adoption* to *30 days prior to receiving waste under the Order*.

12. General Comment Specific to the Newby Island Landfill:

“In April of 2013, the Newby Island Landfill proposed waste acceptance criteria to the Board that requested acceptance of materials containing Constituents of Concern up to California Hazardous Waste limits in the Subtitle D lined landfill units. The premise of the request is that the Subtitle D units provide the same level of protection provided by Class II lined units at other facilities. This proposal was reviewed and approved by the Board later that month. Copies of the request from the Newby Island Landfill and the subsequent response from the Board are attached for reference. Our review of the Tentative Order would indicate that it’s adoption would not alter our ability to accept material containing constituents up to CA hazardous levels at this facility in Subtitle D lined units. We raise the matter here for purposes of transparency so there are no misunderstandings following adoption of the Tentative Order.”

Water Board staff response:

Based on our approval of the waste acceptance criteria proposed in 2013, the Newby Island Landfill is in a similar situation as the four Class III landfills mentioned in Finding 4 and identified with an asterisk in Table 1, in that certain cells that are constructed under Subtitle D criteria have been authorized to accept Class II (designated) wastes. The difference between Newby Island and the other four landfills is that Newby Island’s WDRs have not been updated since 2005 and do not reflect the change that we approved by letter in 2013.

We have added language to a footnote to Table 1 stating that Newby Island is authorized to continue using the waste acceptance criteria we approved in 2013.

B. Comments from Waste Management Corp (WMC).

1. Finding 4: WMC recommended adding the language in red font to the Finding to ensure clarity:

“...The Keller Canyon Landfill is the only active Class II landfill in the San Francisco Bay region; however, some other operating Class III landfills (specifically Potrero Hills, Kirby Canyon, Vasco Road; see Table 1 below) have specific disposal cells that have been designed and constructed to meet the requirements for disposal of Class II wastes specified in Title 27 §20250. The individual WDRs for these landfills authorize disposal of Class II wastes in specific cells, and this Order does not apply to those landfill cells that are authorized to accept Class II wastes in the San Francisco Bay region.”

Water Board Staff response:

We understand the comment, and agree that the waste acceptance criteria contained in the Tentative Order (the WDR Amendment) would have no effect on soil acceptance in disposal cells that have been authorized to accept Class II wastes because those cells can already accept any soil that is not determined to be hazardous. We are reluctant, however, to use the term “*this Order does not apply...*” because the Order *does* apply to all active Class III municipal solid waste (MSW) landfills in our Region, including those (such as Potrero Hills, Kirby Canyon, etc) that contain certain cells that are authorized to accept Class II wastes.

We have addressed the comment by adding a statement to Finding 5 (rather than Finding 4) that says “*This Order does not alter the waste acceptance criteria for specific disposal cells that have been previously authorized by the Regional Water Board to receive Class II wastes, as these cells are already authorized to accept contaminated soils that are not classified as hazardous (Class I) wastes.*” We hope this adequately addresses your concern.

2. Finding 5, page 2 (Table footnote): WMC recommended adding the text in red font to the Finding to ensure clarity:

“The WDRs for these Class III MSW landfills authorize the disposal of Class II (designated) wastes in certain composite-lined cells that have been constructed to meet the Title 27 §20250 requirements for disposal of Class II wastes. This Order does not apply to those landfill cells that are authorized to accept Class II wastes in the San Francisco Bay region.”

Water Board Staff response:

Our response to your first comment also applies to this comment. Please note that we moved some of the text from Finding 4 to Finding 5 to keep the discussion of the applicability of the Tentative Order together. In the Revised Tentative Order, the table that you requested a change to is contained within the same finding (Finding 5) that contains the language we added in response to your first comment; we think it is redundant for the same language to appear in the footnote to the table when it also appears in the paragraph that immediately follows the table.

3. Finding 14, page 4: WMC recommended adding the text in red font to the Finding: “*Soils that are accepted as waste materials and used at a landfill for construction of the final cover foundation layer must meet the waste acceptance criteria established in Section C.2 through C.4 below*” and recommended removing “*for Unrestricted Onsite Use (see Section C.1 below)*”

WMC Rationale: Title 27 §21090(a)(1) allows use of contaminated soil in the foundation layer provided that such materials have appropriate engineering properties for such usage. WMC recommends modifying this text to allow the same flexibility provided for developing site-specific acceptance criteria for general fill to be extended to the foundation layer that

will underlie the final cover system for the landfill. The site-specific waste acceptance criteria are to be developed in consideration of liner type, operating conditions, stormwater management conditions, hydrogeologic setting, etc., and these factors apply equally to both general fill and foundation layer materials below the landfill cap.

Water Board Staff response:

We appreciate your comment that Title 27 allows the use of contaminated soils in the construction of the foundation layer of the final cap. To address the comment, we accepted some of the language you recommended adding, and modified some of it.

Please note that in response to another one of your comments (the comment on Section C.3) we added back into the Revised Tentative Order a category of soils that can be disposed of in Unlined Cells. This category of soils (that was included in the WDR Amendments adopted by the Los Angeles and Santa Ana Regional Water Boards) is intermediate in contamination levels between soils that can be placed or used anywhere within the waste boundary (Soils for Unrestricted Onsite Use) and those soils that must be placed into a Composite-Lined Cell). We agree with you that the soils used in the construction of the foundation layer of the final cap need not meet the more restrictive criteria that apply for Unrestricted Onsite Use (as was the case in the Tentative Order that you reviewed), but we also do not think it is appropriate that any contaminated soils should be used in final cap construction. We propose that soils that meet the acceptance criteria for Disposal in Unlined Cells are appropriate for use in construction of the foundation layer, provided they have the appropriate structural characteristics. We still require that soils used for the uppermost, vegetative layer of the final cap meet the criteria for Unrestricted Onsite Use.

4. Finding 18 (Replacement Text from Los Angeles Approved Order): WMC requested that the text of Finding 18 be replaced with language from the Los Angeles Regional Water Board's updated WDR Amendment for Acceptance of Contaminated Soils. This language refers to the State Water Board's 2014 Industrial General Permit (IGP) rather than the older from 1997 that was referred to in the Tentative Order:

“On April 1, 2014, the State Water Resources Control Board adopted Industrial General Permit (IGP), NPDES Order No. CAS000001, which superseded Order 97-03-DWQ, to regulate storm water discharges associated with industrial activities to waters of the State. Landfill operations are one of the categorical industrial activities required to comply with the IGP. The active landfill owners/operators are required to maintain compliance with applicable water quality standards specified for landfills in the IGP, and its revisions thereafter, for all activities, including the disposal and beneficial reuse of contaminated soils and certain waste-derived materials authorized under this Order.”

WMC Rationale: WMC recommends modifying this text to incorporate the comprehensive stormwater monitoring requirements contained in the more recent IGP adopted in 2014, and to ensure that there is no contradictory language in the Order. The newer regulations

incorporate significant enhancements to both the required sampling parameters, benchmarks and required follow up actions in the event of exceedances. The Industrial General Permit requires a comprehensive onsite analysis of a discharger's industrial activities and pollutant sources. Based on this evaluation, the permit requires the discharger to include additional monitoring parameters based on the pollutant source assessment. Active landfill owner/operators are required to maintain compliance with applicable water quality standards specified in the IGP, and its revisions thereafter, for all industrial activities, including the disposal and beneficial reuse of contaminated soils. In addition to the above requirements, the discharger is also required to review the site for potential pollutants that are within the designated HUC10 watershed and TMDLs. The IGP includes a comprehensive process for required follow-up actions in the event of benchmark exceedances.

Water Board Staff response:

It was an unfortunate oversight that our Tentative Order made reference to the obsolete State stormwater general order from 1997 rather than the current Order No. 2014-0057-DWQ. We have accepted your suggest language from the Region 4 order, with one modification: We removed "NDPES Order No. CAS000001" and added "Order No. 2014-0057-DWQ."

5. Finding 23, page 6: WMC recommended adding the text in red font to ensure clarity:
"CWC §13263(e) provides that the Regional Water Board shall periodically review WDRs. The Regional Water Board has reviewed the existing WDRs for those active landfills in Table 1 that are not authorized to accept Class II waste and finds that revising them through this Order to address the disposal and on-site use of non-hazardous and non-designated contaminated soil and related wastes is appropriate.

Water Board Staff Response:

We decline to add this phrase because we believe that some aspects of the Tentative Order (such as the criteria for Unrestricted Onsite Use) apply to all of the active MSW landfills in Region 2, not just those that are not authorized to accept Class II waste. We have included language (such as in Finding 5) stating clearly that this Order does not change the acceptance criteria for those disposal cells that can accept Class II wastes.

6. Prohibition B.4, page 7: WMC requested some edits to this Prohibition:
"Soils with contaminants present in concentrations that exceed the levels (remove "for unrestricted onsite reuse") established in Section C.2 through C.4 of this Order shall not be used or disposed onsite outside the boundaries of a lined or unlined cell." (remove "outside the boundaries of a composite-lined disposal cell")

WMC Rationale: WMC recommends modifying this text to be consistent with Section C.4, which provides use of an approved optional evaluation method for developing waste acceptance criteria in lieu of using RSLs and ESLs described in Section C.2. As indicated in Section A. 2, concentration limits may vary for different landfills based on site-specific

conditions including the design and construction of environmental control systems, landfill operations and stormwater management conditions, and the hydrogeologic setting.

Water Board Staff response:

We decline to make the suggested changes. Our intent with this Prohibition is simply to make sure that soils with contaminant concentrations that exceed the criteria we are setting for Unrestricted Onsite Use (Section C.2) are only placed within disposal cells and not used in other places on the landfill property. Because we added the category of soils that can be placed in Unlined Disposal Cells (Section C.3), we replaced the words “composite lined” with “designated.”

7. Waste Acceptance Criteria C.1, page 8: WMC recommended edits to this Finding:
*“If a discharger intends to accept contaminated soil into a landfill cell that is not authorized to accept Class II waste, the Discharger shall develop and implement a Waste Acceptance Program (WAP) for contaminated soils.....
....If a landfill has an existing WAP for contaminated soils, the landfill shall continue to comply with that WAP on an interim basis, not to exceed 90 days from the adoption of this Order, until an updated WAP complying with this Order is submitted and approved by the Executive Officer.*

WMC Rationale: WMC recommends modifying the first portion of this text to emphasize that the requirements in Section C of the Order do not apply to units authorized to accept Class II waste. The text is also modified to reflect that the Order only applies to those dischargers choosing to accept contaminated soils.

WMAC recommends modifying the second portion of the text to provide additional time for both the preparation of updated WAPs and the RWQCB review process involved. With the potential that eight landfills in the region will submit new technical plans for non-Class II waste acceptance criteria, the current schedule does not provide sufficient time for review and approval of all such plans. As currently written, if WAPs are not approved within 90 days of Order adoption, the important service provided by landfills as part of the management of contaminated soils could be shut down.

The discharger also has no control over RWQCB manpower issues and the timeliness of agency review, and we do not believe that existing waste acceptance limits contained in a facility’s WDR should be considered invalid until the RWQCB accepts a new plan.

Water Board Staff response:

We understand the concerns expressed here, and we modified the language to address the comment, although we did not use WMC’s recommended language verbatim. We revised the first sentence (see C.1) to read “The Discharger shall develop and implement a Waste Acceptance Program (WAP) for disposal or use of contaminated soils in disposal cells that are not designed, constructed, and authorized to receive Class II wastes.” With this new wording, if a landfill plans only to place contaminated soils in cells that are authorized to accept Class II wastes, there may be no need to submit the WAP.

With respect to the WAP submission, please see the response to Republic Services' comment number 9.

8. Waste Acceptance Criteria C.3 (Replacement Text from Santa Ana Region Approved Order, Modified with Inclusion of ESLs): WMC requested addition of a 3rd category of soils that was not included in the Tentative Order. The language is modified from the Santa Ana Region's WDR Amendment):

“Non-hazardous contaminated soils that do not exceed the following threshold criteria may be disposed of or used onsite at any portion of an unlined cell provided placement is within the Facility's Permitted Waste Boundary:

- a. Soils contaminated with an average concentration less than 500 mg/kg in the C4-C12 carbon-chain range, or 5,000 mg/kg in the C13-C22 carbon-chain range, or an average TPH concentration higher than 50,000 mg/kg.
- b. Soils with an average, contaminant-specific concentration that does not exceed a PRG for industrial sites established by the US EPA.
- c. In absence of PRG limits, soils with an average, contaminant-specific concentration that does not exceed Environmental Screening Level (ESL) for “commercial/industrial” sites compiled by the San Francisco Bay Regional Water Quality Control Board.
- d. Soils contaminated with VOCs, SVOCs, organochlorine pesticides, PCBs, or CAM metals shall not be disposed of at unlined, or unlined portions, of MSW landfills if the contaminant exceeds 100 times an established MCL, on a per-weight basis. An exception is the disposal limit of 50 mg/kg for PCBs, which has been established under 40 CFR §761.61 (a)(S)(v)(A)(1).”

WMC Rationale: The Order as currently written does not contain specific criteria for unlined landfill units consistent with other waste acceptance orders in the State. WMC recommends adopting prescriptive limits contained in both the Santa Ana RWQCB and Los Angeles RWQCB Orders for acceptance of contaminated soils in unlined units.

Water Board Staff response:

We agree that this category of contaminated soils needs to be in the Tentative Order, and we have added it (see Finding 14 and C.3), although we did make some modifications to the Santa Ana Region's wording to make the criteria for the TPH carbon chain ranges more consistent with our Region's ESLs. We also use the USEPA's term “RSL” rather than “PRG” because it is more up to date.

9. Waste Acceptance Criteria C.4.i, page 9: WMC recommended a minor edit to account for the geographic variability of water quality criteria across the Region:
- “Water quality objectives – Consistent with the Basin Plan's municipal and domestic supply beneficial use for groundwater resources in the San Francisco Bay region, the Discharger shall use the most stringent Basin Plan objectives **geographically relevant to a particular landfill setting** as the water quality objective;”*

Water Board Staff response:

We agree that this edit is appropriate. The change has been made in the Revised Tentative Order.

10. Stormwater Management, D.1 through D.3 (Replacement Text from Santa Ana Approved Order with two Modifications Noted): WMC recommended replacing this section of the Tentative Order, which referred to the 1997 State Water Board stormwater order, with reference to the more appropriate 2014 IGP:

- “1. The MSW landfill operator shall ensure that waste constituents are not mobilized from any contaminated soils used onsite as part of environmental control systems at concentrations which would adversely affect beneficial uses of waters of the State. All surface runoff and erosion controls systems shall be consistent with the requirements specified in the State's General Industrial Stormwater Permit, Order No. 2014-0057-DWQ, and any subsequent revisions thereto. The MSW landfill operator shall review its Storm Water Pollution Prevention Plan (SWPPP) to determine the need for any revisions specifically to address contaminants in the wastes accepted under this Order. Any required revisions to the SWPPP should be completed 30 days prior to acceptance of any wastes under this Order.”
- “2. The SWPPP shall include, but not be limited to:
- a. Procedures for limiting the use of contaminated soils during periods of wet weather so that the contribution of waste constituents and foreseeable breakdown byproducts to surface water runoff is minimized.
 - b. Drainage diversion structures to control surface water run-on and run-off to limit interaction with wastes exposed in landfill working areas.
 - c. To the extent feasible, describe, implement, and maintain any minimum and advanced BMPs identified in the Industrial General Permit, necessary to reduce or prevent discharges of pollutants in its storm water discharge in a manner that reflects best industry practice considering technological availability and economic practicability and achievability.”

WMC Rationale: WMC suggests modifying this section to be consistent with the stormwater requirements contained in the revised regulations. The Industrial General Permit (IGP) requires a comprehensive and on-going analysis of a discharger's industrial activities and pollutant sources. The IGP permit for all landfills state-wide requires periodic SWPPP updates, and the discharger must include additional monitoring parameters based on a pollutant source assessment. These activities are all required under a separate set of regulations administered by the SWRCB. The Order as currently written creates significant concern and confusion regarding the application of stormwater regulations and the delegation of authority. This was recognized within the Santa Ana approved order and is reflected above with modification noted to reflect the current IGP.

Water Board Staff response:

The Tentative Order incorrectly referred to the 1997 State Board stormwater order rather than the 2014 IGP. We agree with the proposed inclusion of language from the Santa Ana

Region's WDR Amendment, although we did make some minor edits to the proposed language.

11. Reporting Requirements, E.2, page 11: WMC recommended some changes to the specific requirements for routine submittal of monitoring data:

“Dischargers shall report (remove “all”) Program related activities in corresponding quarterly or semiannual monitoring reports, pursuant to the monitoring and reporting program in site specific WDRs for the corresponding landfill. The report shall include a summary of the types, volumes, and disposal or onsite use for all wastes accepted pursuant to requirements of this Order. (Remove “The report shall also compile all”) Approved waste profiling information utilized by the Discharger to implement Program requirements during the corresponding quarterly or semiannual period shall be maintained on site or electronically. This information shall be made available as confidential business information for Regional Water Board review upon request. (Remove “including all sampling, measurement, and analytical results, including: the date, exact place, and time of sampling or measurement; individual(s) who did the sampling or measurement; the date(s) analyses were done; analysis names; and analytical techniques or methods used to profile contaminated soils or wastes”.)

WMC Rationale: WMC recommends modifying this request due to the voluminous amount of supplemental information that would need to be added to routine monitoring reports, and the significant amount of work required to compile all of this data into a single file. WMC also has concerns regarding the business-sensitive nature of the information requested for inclusion in routine monitoring reports.

Water Board Staff response:

We appreciate the request to limit the voluminous amount of data that has been required to be submitted in routine monitoring reports. In the age of electronic reporting, we are comfortable with the proposal that some of the supporting information can be retained by the Discharger, provided that it is made available upon request by Regional Water Board staff. The requested change to E.2 has been made in the Revised Tentative Order.