

SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
3.12  
(ID # 10737)

MEETING DATE:

Tuesday, September 17, 2019

FROM : ENVIRONMENTAL HEALTH:

SUBJECT: ENVIRONMENTAL HEALTH: Adopt Resolution 2019-196 Defining the Reporting Structure for the Department of Environmental Health as the Local Enforcement Agency for Solid Waste, All Districts. [\$0]

RECOMMENDED MOTION: That the Board of Supervisors:

1. Adopt Resolution 2019-196 defining the reporting structure for the Department of Environmental Health as the Local Enforcement Agency for Solid Waste.

ACTION: Policy


Keith Jones, Director Environmental Health 8/26/2019

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MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Hewitt, seconded by Supervisor Perez and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: September 17, 2019  
xc: Environmental Health

Kecia R. Harper  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS: N/A</b>			<b>Budget Adjustment:</b>	No
			<b>For Fiscal Year:</b>	N/A

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

The Department of Environmental Health (DEH) administers multiple areas of County Ordinance and State law. Some programs are designated to the DEH by other entities or agencies. The Local Enforcement Agency for Solid Waste (LEA) program is designated to the DEH by California's Department of Resources Recycling and Recovery (CalRecycle) per the terms set forth in California Public Resources Code and California Code of Regulations. The DEH is required to provide CalRecycle yearly updates on its programs and the County structure to maintain its designation.



The change to a portfolio system for managing the numerous County departments was highlighted in the most recent program review by CalRecycle as a potential conflict of interest. Per CalRecycle, the placement of Environmental Health and Waste Resources in the same portfolio requires a defined separation of reporting points for the LEA program to be filed with and approved by the Board of Supervisors. The attached Resolution 2019-196 defines that separation as it relates the LEA program, while maintaining the existing reporting system for all other DEH programs.

**Impact on Residents and Businesses**

None. The structure proposed in the resolution does not change the manner in which the Department manages the oversight of solid waste sites and solid waste issues, nor does it change how the public interacts with the Department.

**Attachments**

Resolution 2019-196  
CalRecycle Letter

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Jason Farin, Senior Management Analyst      9/10/2019      Gregory V. Priamos, Director County Counsel      8/28/2019

1 Board of Supervisors

County of Riverside

2 RESOLUTION No. 2019-196

3  
4 A RESOLUTION OF THE COUNTY OF RIVERSIDE DEFINING THE REPORTING STRUCTURE FOR  
5 THE DEPARTMENT OF ENVIRONMENTAL HEALTH AS THE LOCAL ENFORCEMENT AGENCY  
6 FOR SOLID WASTE

7  
8 WHEREAS, Riverside County Ordinance 442 has established that the County Executive  
9 Officer (CEO) has the responsibility for directing department heads on budgeting and administrative  
10 goals and policies; and

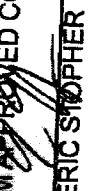
11 WHEREAS, Riverside County Ordinance 442 also establishes that the CEO may assign or  
12 delegate those responsibilities to any department or person under the Riverside County Board of  
13 Supervisors' control; and

14 WHEREAS, the CEO has organized the County Departments into portfolios of related functions  
15 that report to an Assistant CEO; and

16 WHEREAS, one such portfolio is for Public Works, Land Use and the Environment (PLE) that  
17 includes Flood Control, Environmental Health, Waste Resources, Transportation, Community  
18 Development, Building and Safety, and Code Enforcement; and

19 WHEREAS, the Director of the Department of Environmental Health (DEH), currently reports  
20 to the Assistant CEO over the PLE; and

21 WHEREAS, DEH is responsible for administering various State and County programs  
22 including the Local Enforcement Agency (LEA) as designated in California Public Resources Code  
23 Section (PRC) 43200 et seq. and Title 14 of the California Code of Regulations (CCR) Section 18050  
24 et seq. that regulates solid waste facilities and operations such as those managed by the Department of  
25 Waste Resources; and

FORM APPROVED COUNTY COUNSEL  
BY:  ERIC STOPHER  
DATE 8/27/19

1           WHEREAS, PRC 43207 requires that "No local governmental department or agency, or any  
2 employee thereof, which is the operating unit for a solid waste handling or disposal operation shall be  
3 the enforcement agency, or an employee thereof, for the types of solid waste handling or disposal  
4 operation it conducts"; and

5           WHEREAS, 14 CCR Section 18051 (d) requires the LEA to provide "An organizational chart  
6 documenting the separation of the designated agency from public agencies or departments that are the  
7 operating units under the local governing body"; and WHEREAS, 14 CCR Section 18074 (a)(1)(E)  
8 requires adequate LEA budget resources to be identified and maintained in order for the LEA to fulfill  
9 program enforcement duties and responsibilities, which includes staff time and independent legal  
10 counsel to preclude conflict of interest and lack of timely enforcement pursuant to 14 CCR 18084; and

11           WHEREAS, separation of the duties and responsibilities of the PLE pertaining to the CEO, the  
12 Assistant CEO, the Director of the DEH, and the Chief Operating Officer (COO) are ordained as  
13 follows; and

14           WHEREAS, this budgeting, reporting, and supervisory structure for the LEA will be separate  
15 and distinct from the budgeting, enforcement, and supervisory structure of the DEH and the  
16 Department of Waste Resource; and

17           WHEREAS, the CEO shall designate the COO as the reporting entity within the Executive  
18 Office to which the LEA will report; and

19           WHEREAS, employees who perform LEA functions as designated by PRC 43200 et seq. shall  
20 not be within the PLE, but will instead be within the oversight and supervision of the Director of the  
21 DEH and COO; and

22           WHEREAS, the PLE Assistant CEO shall not conduct performance review, discipline or  
23 terminate any employees of the PLE who are assigned LEA functions, responsibilities, and duties; and

24           WHEREAS, should any LEA employee have job duties split between a position with PLE and  
25 LEA, he or she shall only discuss LEA issues with other LEA employees, the Director of the DEH and  
26 the COO, and shall not discuss LEA issues with the PLE Assistant CEO; and

1           WHEREAS, the PLE Assistant CEO shall have no power to control or direct the activities of  
2 the Director of the DEH or any employees of that office regarding LEA duties; and

3           WHEREAS, the Director of the DEH shall plan, direct, supervise and coordinate all programs  
4 of the DEH including the implementation of the LEA Program for solid waste, however, general  
5 administrative direction shall be conducted by the COO rather than the PLE Assistant CEO in the LEA;  
6 and

7           WHEREAS, neither the PLE Assistant CEO nor any department head within PLE other than  
8 the Director of the DEH may direct, control, hire or fire any employees of the LEA or those employees  
9 who are performing split duties between the LEA and PLE; and

10          WHEREAS, the PLE Assistant CEO shall not evaluate or contribute to the evaluation of the  
11 Director of the DEH regarding the performance of the function of the LEA; and

12          WHEREAS, a Resolution of the Board of Supervisors is required to delineate the separation of  
13 powers between departments that could interact.

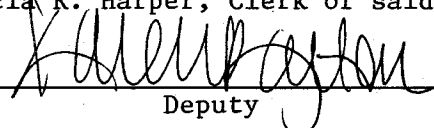
14          **BE IT RESOLVED AND ORDERED** that the DEH, by and through its appointed Director,  
15 shall continue to report to the Assistant CEO over the PLE for all other aspects that are not related to  
16 the LEA functions; and,

17          **BE IT FURTHER RESOLVED AND ORDERED** that the Department of Waste Resource,  
18 or its successor, within the PLE reporting portfolio, shall continue to report directly to the PLE Assistant  
19 CEO.

ROLL CALL:

Ayes:           Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays:           None  
Absent:         None

The foregoing is certified to be a true copy of a resolution duly adopted by said Board of Supervisors on the date therein set forth.

Kecia R. Harper, Clerk of said Board  
By   
Deputy



## DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, SACRAMENTO, CALIFORNIA 95814 • WWW.CALRECYCLE.CA.GOV • (916) 322-4027

P.O. BOX 4025, SACRAMENTO, CALIFORNIA 95812

June 20, 2019

Mr. George Johnson  
County Executive Officer  
County of Riverside  
4080 Lemon Street, 4<sup>th</sup> Floor  
Riverside, CA 92501

RCED JUN24'19 PM12:54

Subject: Consideration of County-Wide Organization Chart Conflict of Interest

Dear Mr. Johnson:

Thank you for the letter dated May 1, 2019 regarding the LEA and Waste Resource Departments residing under the Agency of Public Works, Land Use and Environment portfolio.

CalRecycle acknowledges that government organizational structures change; nonetheless, the application of the California Code of Regulations (CCR) and Public Resource Codes (PRC) remains constant. CalRecycle's responsibility is to ensure that the Local Enforcement Agency (LEA) maintains the requirements of certification.

Pursuant to 14 CCR 18051(d), "An organizational chart documenting the separation of the designated agency from public agencies or departments that are the operating units under the local governing body" is a primary component to the certification requirements. Two other regulations that better defines the terms LEA and operating unit are 14 CCR 18011(a)(16-17):

**(16) "Local Enforcement Agency" (LEA) means an enforcement agency with board certification(s) totally separate from the operating unit(s) of the local governing body. An LEA is a comprehensive solid waste enforcement agency which performs permitting, inspection, and enforcement duties for solid waste handling, and permitted, closed, abandoned, exempt, illegal, and inactive facilities [emphasis added]. An LEA is solely responsible for carrying out solid waste enforcement in its jurisdiction as defined in 14 CCR Division 7, 27 CCR Division 2, Subdivision 1 (§20005 et seq.) and Division 30 of the Public Resources Code. Upon certification(s) the LEA shall have full power to execute the Act and the regulations adopted hereto.**

**(17) "Operating unit" means a local agency within the jurisdiction of the designating local governing body that operates, causes to operate, or administers contracts or agreements for any portion of a facility or solid waste handling and disposal system [emphasis added].**

In the past, numerous jurisdictions have had to contend with resolving the LEA/operations conflict of interest due to a county wide-reorganization, and, in doing so, have assured that their public works or other departments that oversee the operating units in their jurisdiction have an independent reporting structure through and up to the County Administrative Officer (CAO) level or alike. A few exceptions have been allowed in the past where the jurisdictions provided official documentation from their governing body of policies that specifically addresses separation of administration, finances, staff/management reporting, and enforcement through the Board of Supervisors (BOS). Though not preferred, the jurisdictions that have gone this route have established precedence of a BOS resolution/ordinance that describes the separation between LEA and operations where it cannot be clearly seen in the organizational chart.

While the May 1, 2019 letter describes the reporting of the LEA program and its various activities, the contents of the letter do not adequately provide for a clear separation between the LEA and operations consistent with regulatory requirements as they have been applied to all other LEAs in the state. In order to be compliant with LEA certification requirements, the County needs to either:

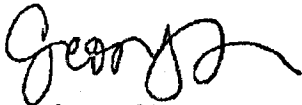
- Relocate the LEA Program under an Assistant County Executive Officer (CEO) portfolio that does not include Department of Waste Resources; or
- Provide a Board of Supervisors (BOS) approved resolution/ordinance which clearly delineates the separation of administrative and enforcement duties as it relates to Departments of Environmental Health and Waste Resources, located under the Agency of Public Works, Land Use and Environment. This option, at a minimum, needs to include in the resolution/ordinance a description of the reporting structure for LEA staff, supervision, and management that is clearly separate from the reporting structure of those staff and managers involved in any aspect of the operating units; including and not limited to evolution of staff, issuance of enforcement actions, and budget conditions.

Should Riverside County choose to pursue the latter option, three (3) counties' resolution/ordinances and organizations charts that have been approved by CalRecycle are attached to aid in this endeavor. We highly recommend sharing a draft of the resolution prior to approval so that we can address any potential obstacles to approval prior to adoption.

Riverside County County-Wide Organization Chart Conflict of Interest  
June 20, 2019  
Page 3

Should you have further questions or need assistance, please contact me at (916) 341-6429 / [Georgianne.Turner@CalRecycle.ca.gov](mailto:Georgianne.Turner@CalRecycle.ca.gov) or Diana at (916) 341-6377 / [Diana.Cozaad@CalRecycle.ca.gov](mailto:Diana.Cozaad@CalRecycle.ca.gov).

Sincerely,



Georgianne Turner, Branch Chief  
Waste Evaluation and Enforcement Branch  
Waste Permitting, Compliance and Mitigation Division

Attachments: Nevada County Ordinance 2258 & Organizational Charts  
Madera County-BOS Ordinance 585B & Organizational Charts  
Yolo County BOS Ordinance 1444 & Organizational Charts

cc: Lisa Brandl, Riverside County Chief Operating Officer  
Juan Perez, Assistant CEO, Public Works, Land Use & Environment Agency  
Keith Jones, Director, Department of Environmental Health  
Jeff Johnson, Deputy Director, Environmental Protections & Oversight  
Bonnie Dierking, Program Chief, Environmental Resources Management  
Greg Reyes, Supervisor, Local Enforcement Agency