

COUNTY OF SAN DIEGO CONCEPT PAPER FOR HAULING SYSTEM MODIFICATIONS

EXECUTIVE SUMMARY

In 2019, the County of San Diego (County) plans to implement changes to the way it regulates companies that provide solid waste, recyclables, organics, and construction and demolition debris (C&D) collection services in the unincorporated areas of the County. During 2018, the County will be defining the changes, seeking input from stakeholders, and drafting a new non-exclusive franchise agreement (NEFA) and ordinance modifications. This Concept Paper for Hauling System Modifications (Concept Paper) presents the County’s initial ideas on modifications to the hauling system with the intention of providing haulers the opportunity to review and comment on the concepts. HF&H Consultants, LLC (HF&H) is assisting the County with modification of the hauling system and has worked collaboratively with the County to prepare the Concept Paper.

Timeline and Stakeholder Input Process

Figure 1 presents the County’s timeline for planning and implementing hauling system modifications and new non-exclusive franchise agreements (NEFAs). The May 21 Hauling System Workshop provides the first opportunity for stakeholder input. At this meeting, the County will present the hauling system modification concepts and receive feedback from attendees. In addition, haulers and other stakeholders can email written comments to the County Program Manager, Michael Wonsidler. (See contact information provided later in this document.)

Figure 1: County Timeline for Hauling System Modifications

	Activity	Completion Date*
1	Concept paper distribution	May 2018
2	Hauling system workshop	May 21, 2018
3	Acceptance of stakeholder comments	June 4, 2018
4	Preparation of NEFA and Ordinance modifications	June – Aug 2018
5	Hauling system workshop(s)	Oct 2018
6	Acceptance of stakeholder comments	Oct 2018
7	Revision of NEFA and Ordinance modifications	Nov– Dec 2019
8	Public workshop	Jan 2019
9	Finalize NEFA and Ordinance	Feb – Mar 2019
10	Board consideration	May 2019
11	First reading of ordinance revisions at Board meeting	May 2019
12	Second reading of ordinance revisions at Board meeting	May/June 2019
13	Board approval of NEFA and Ordinance revisions	June 2019
14	Receive applications from haulers	July 2019
15	Enter into NEFAs with haulers	July – Sep 2019
16	Commencement of new NEFAs	October 1, 2019

* All dates subject to change.

Reason for Change: Strategic Plan to Reduce Waste and SB 1383

The County's Board of Supervisors set a goal to increase its 2015 waste diversion level of 62% to a diversion level of 80% by 2030 in the unincorporated County areas. The 80% goal is the primary driver for the changes to the hauling system. Other reasons for changing the hauling system include compliance with SB 1383 regulations and management of cost impacts to all parties.

Tiered-Hauler System

The County plans to establish a Tiered-Hauler System to establish different requirements for various classifications of haulers. The value of the tiered system is the ability to define more robust service requirements and performance standards for the large haulers, which collect 97% of the franchise tonnage in the County and service nearly all residential customers. Conversely, less extensive requirements will be mandated for smaller haulers and haulers that may focus on particular material type(s). Key objectives of the Tiered-Hauler System are to increase recycling and organics diversion rates and to improve hauler oversight. A brief overview is provided below. Additional details are presented later in the Concept Paper.

Tier 1 and 2 Haulers

Tier 1 and 2 haulers will include the haulers that currently hold SWMAs with the County. Tier 1 will be designated for haulers that provide collection services to all customer types – single-family, multi-family, commercial, and industrial customers. Tier 2 haulers will be for those haulers that only provide collection services to multi-family, commercial, and industrial customers. The number of current SWMAs will be reduced through consolidation under parent companies to streamline NEFA administration, reporting, and more. The cap of 29 SWMAs will be discontinued, and Tier 1 and 2 haulers will be limited to the number of Tier 1 and 2 NEFAs that is realized from consolidation. Haulers will have the right to assign their NEFAs as they do now.

The Board of Supervisors reserves the right to evaluate the need for competition and accept applications for additional Tier 1 and/or 2 haulers at a later date. Tier 1 and 2 haulers will also have the right to collect C&D materials in accordance with Tier 3 requirements. Tier 1 and 2 haulers will enter into new NEFAs reflecting the provisions described in the Concept Paper including enhanced collection services, payment of franchise fees, compliance with minimum diversion level requirements and other performance standards, and enhanced reporting.

Tier 3 Construction and Demolition Debris (C&D) Haulers

Tier 3 will include haulers that collect C&D from properties where construction and demolition debris work is performed as evidenced by County issuance of a land clearing, building, or demolition permit, or from a non-permitted municipal project. These haulers are currently not regulated by the County and will be required to apply for and enter into a Tier 3 C&D NEFA. Tier 3 hauler enrollment process will be open to any qualified hauler during a defined application period and then on an on-going basis. The County will not limit the number of Tier 3 NEFAs granted to maintain a high level of competition and to provide opportunities for companies. Tier 3 haulers will apply for Tier 3 NEFAs, and if deemed qualified, will enter into NEFAs reflecting provision of this Concept Paper including payment of franchise fees, compliance minimum diversion level requirements and other performance standards, reporting, and more. Tier 3 haulers will not be eligible to transition to Tier 1 or 2.

Tier 4 Recyclables and Organics Materials Haulers

Tier 4 haulers will include small hauling companies that collect 1,000 tons per year or less of recyclables, green waste, food waste, and pallets. These companies will be regulated by the County through a certified hauler system modeled after the City of San Diego's certified recyclables materials collectors (CRMCs) system and provisions. Several elements of the City of San Diego's CRMC requirements that will be similar to the County's Tier 4 hauler requirements include, but are not limited to, the application process, two-year renewal cycle, 90% diversion rate requirement, insurance requirements, and reporting requirements. Tier 4 haulers will not be required to pay a franchise fee and will not be eligible to transition to Tier 1 or 2.

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Introduction

In 2019, the County of San Diego (County) plans to implement changes to the way it regulates companies that provide solid waste, recyclables, organics, and construction and demolition debris (C&D) collection services in the unincorporated areas of the County. During 2018, the County will be defining the changes, seeking input from stakeholders, and drafting a new non-exclusive franchise agreement (NEFA) and ordinance modifications. This Concept Paper for Hauling System Modifications (Concept Paper) presents the County's initial ideas on modifications to the hauling system with the intention of providing haulers the opportunity to review and comment on the concepts. HF&H Consultants, LLC (HF&H) is assisting the County with modification of the hauling system and has worked collaboratively with the County to prepare the Concept Paper.

The Concept Paper includes the following:

- Timeline and stakeholder input process;
- Reasons for change – County Diversion Goals and State regulations;
- Tiered-hauler system;
- Application process;
- Enhancements to hauling services;
- Diversion requirements;
- Expanded reporting requirements;
- Enhanced performance standards and liquidated damages; and,
- Other modifications to the NEFA.

Timeline and Stakeholder Input Process

Figure 1 on the following page presents the County's timeline for planning and implementing hauling system modifications and new non-exclusive franchise agreements (NEFAs). Stakeholder input from non-exclusive franchise haulers, recyclers, C&D haulers, and customers will be invited during the process. The May 21 Hauling System Workshop provides the first opportunity for stakeholder input. At this meeting, the County will present the hauling system modification concepts and receive feedback from attendees. In addition, haulers and other stakeholders can email written comments to the County Program Manager, Michael Wonsidler.

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Reason for Change: Strategic Plan to Reduce Waste and SB 1383

The County’s Board of Supervisors adopted a goal of reducing waste in the unincorporated County areas to increase its 2015 diversion level of 62% to a diversion level of 75% by 2025 in response to the April 12, 2017 “County of San Diego Strategic Plan to Reduce Waste (Strategic Plan).¹ The Strategic Plan described changes to the County’s hauling system to support this diversion goal. In addition, the County set a more aggressive goal of achieving 80% diversion level by 2030 in its Climate Action Plan, which was adopted by the Board of Supervisors on February 14, 2018. Other reasons for changing the hauling system include compliance with SB 1383 regulations and management of cost impacts to all parties.

¹ The County’s diversion level is calculated based on the target and actual per-person disposal rates in the County’s Annual Report to CalRecycle. It reflects waste prevention and reuse, non-exclusive hauler recycling, as well as recycling that occurs in addition to the hauler-controlled diversion programs.

County of San Diego Strategic Plan to Reduce Waste

The April 12, 2017 Strategic Plan resulted in the County setting a target of reaching 75% diversion by 2025. It included approximately 20 recycling and organics program recommendations to increase the 2015 baseline diversion level of 62% to 75% in 2025. Eight of the programs, shown in Figure 2, involve making changes to the County’s collection and processing requirements, and account for 73% of the diversion needed to reach the 75% diversion target. The Strategic Plan presented a set of recommended changes to the County’s solid waste management agreements (SWMAs) that included: adding new service requirements, establishing minimum diversion requirements, expanding education obligations, augmenting reporting requirements, including additional performance standards, and modifying other terms and conditions of the SWMAs. In addition, the Strategic Plan recommended managing C&D haulers through the non-exclusive hauling system.

**Figure 2: Recommended Programs in the Strategic Plan
Reliant on Hauling Changes**

Program/Policy	Diversion Estimate (tons/year)	
	Low	High
Commercial food scraps collection	22,000	34,000
Regulate C&D haulers with minimum diversion requirements	16,700	29,500
Single-family collection with consistent hauler requirements	12,400	24,700
Commercial collection with minimum recycling level requirements	19,000	21,000
Single-family food scraps collection	1,200	4,200
Enhance hauler performance standards, including minimum diversion goals	2,600	3,900
Improve diversion, tracking and oversight of haulers	1,300	2,600
Establish additional hauler-provided drop-off facilities	400	1,500
Total	75,600	121,400
Total Estimated Diversion for All Programs/Policies	97,200	165,200
% of Diversion Needed to Reach 75% Diversion Goal	78%	73%

Source: “County of San Diego Strategic Plan to Reduce Waste”, April 12, 2017, HF&H Consultants, LLC.

SB 1383 Regulations

In September 2016, the Governor of California signed SB 1383 (Lara, Chapter 395, Statutes of 2016) that established methane emissions reduction targets in a Statewide effort to reduce short-lived climate pollutants (SLCP). Among other things, SB 1383 focuses on organic waste methane emission reductions and defines 3 Statewide targets: (1) 50% reduction in disposal of organic waste from 2014 levels by 2020; (2) 75% reduction by 2025; and, (3) recovery of not less than 20% of currently-disposed edible food for human consumption by 2025. SB 1383 also establishes organics recycling requirements for generators, jurisdictions, haulers, processors, and food recovery organizations. Many of the programs recommended in the Strategic Plan will support the County’s compliance with SB 1383 requirements; however, additional changes to the County’s collection, monitoring, enforcement, and reporting framework are needed to comply with SB 1383 requirements. As a result, some of the proposed hauling system modifications in this Concept Paper are included to support compliance with SB 1383.

It is important to recognize that CalRecycle is in the process of developing SB 1383 regulations, with the anticipation that they will be finalized in late 2018/early 2019. CalRecycle’s October 24, 2017 and May 2018 Proposed SLCP (SB 1383) Regulation Text was used as the basis for identifying hauler-related changes reflected herein. The final SB 1383 may differ somewhat (or significantly) from draft regulations. As a result, the County may make subsequent changes to the proposed hauling system modifications based on future draft regulations and the final regulations.

Tiered-Hauler System

The County plans to establish a Tiered-Hauler System to establish different requirements for various classifications of haulers. The value of the tiered system is the ability to define more robust service requirements and performance standards for the large haulers, which collect 97% of the franchise tonnage in the County and service nearly all residential customers. Conversely, less extensive requirements will be mandated for smaller haulers and haulers that may focus on particular material type(s).² Key objectives of the Tiered-Hauler System are to increase recycling and organics diversion rates and to improve hauler oversight. The County wants to accomplish these objectives while maintaining opportunities for hauling companies currently serving residents and businesses in the unincorporated areas of the County. Figure 3 presents a summary of the Tiered-Hauler System in terms of the regulation method and allowable customer and materials types for each Tier. Figure 3 also identifies plans to cap the number of Tier 1 and 2 haulers and the obligation of Tier 1, 2, and 3 haulers to pay franchise fees.

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² Estimated 97% franchise tonnage collected by large haulers was obtained from Section 3.3.1 of the “County of San Diego Strategic Plan to Reduce Waste”, April 12, 2017, HF&H Consultants, LLC.

Figure 3: Tiered-Hauler System Overview

	Tier 1 Full-Service Haulers	Tier 2 Multi-Family/ Commercial Haulers	Tier 3 C&D Roll- Off Haulers	Tier 4 Recyclables and Organics Haulers
Key Consideration				
Regulation Method	NEFA	NEFA	NEFA	Certification
Customer Type				
Single Family Residential	✓			✓
Multi-Family Residential	✓	✓		✓
Commercial/Industrial (Roll-Off)	✓	✓		✓
C&D	✓	✓	✓	
Allowable Material Types				
Solid waste	✓	✓		
Source separated recyclables ¹	✓	✓		✓
Mixed recyclables ²	✓	✓		
Mixed organics ³	✓	✓		✓
Food waste	✓	✓		✓
Yard trimmings	✓	✓		✓
Source separated inerts (dirt, rock, asphalt, concrete, etc.)	✓	✓	✓	✓
C&D (loads 90% or more C&D) ⁴	✓	✓	✓	
Other Considerations				
Cap on number of haulers	✓ ⁵	✓ ⁵		
Franchise fees	✓ ⁶	✓ ⁶	✓ ⁶	
Limit on tonnage of material hauled				✓

- 1 Source separated recyclables refers to recyclable materials that are separated by the generator and separately collected for recycling. Examples include cardboard, metal, wood, textiles, and electronics.
- 2 Mixed recyclables refers to a mix of recyclable materials (e.g., papers, glass, plastics, metal containers, etc.) placed by the generator in one container for collection. Also known as commingled recyclables or single-stream recyclables.
- 3 Mixed organics refers to a mix of food waste and yard trimmings placed by the generator in one container for collection.
- 4 C&D refers to construction and demolition debris materials collected from construction and demolition sites. It may be mixed or source separated.
- 5 The number of haulers in Tier 1 and 2 will be limited to the number of NEFAs resulting from consolidation of haulers that currently hold SWMAs with the County.
- 6 Franchise fees are assessed on all tons collected, excluding source separated inerts pursuant to 2017 Board of Supervisor’s resolution.

Additional conditions of the Tiered-Hauler System include the following:

- Tier 1 and 2, Full-Service and Multi-Family/Commercial Haulers
 - Current SWMAs will be transitioned to Tier 1 and 2 NEFAs.
 - SWMA haulers currently serving all types of customers will become Tier 1 haulers.
 - SWMA haulers currently providing services only to multi-family, commercial, and industrial customers will become Tier 2 haulers.
 - Tier 1 and 2 haulers will have the right to move between tiers subject to County approval.
 - The number of NEFAs will be reduced through consolidation of current haulers holding SWMAs under parent companies. This consolidation will streamline NEFA administration, reporting (to the extent haulers want to report by parent company rather than by affiliates or divisions), and more for both the County and haulers.
 - The cap of 29 SWMAs will be discontinued, and Tier 1 and 2 NEFAs will be limited to only the number of NEFAs that result from consolidation. The County Board of Supervisors reserves the right to evaluate the need for competition and accept applications for additional Tier 1 and/or 2 haulers at a later date, if it determines additional competition would be beneficial. For example, conditions for opening the application process may include, but are not limited to, concern that certain geographic areas are under served. In which case, the Board may consider limiting applications for new Tier 1 or 2 haulers to that specific geographic area(s).
 - All Tier 1 and 2 haulers will be required to enter into new NEFAs that include service enhancements and other contract modifications described in this Concept Paper.
 - Tier 1 and 2 haulers will also have the right to collect C&D materials in accordance with Tier 3 requirements.
 - Tier 1 and 2 haulers will have right to assign their NEFAs.
- Tier 3, C&D Haulers
 - C&D haulers will be required to enter into Tier 3 NEFAs.
 - The number of haulers in this tier will not be capped as a strategy for encouraging all C&D haulers to secure NEFAs.
 - Tier 3 C&D haulers will be authorized to collect C&D materials only from properties where construction and demolition work is performed as evidenced by County issuance of a land clearing, building, or demolition permit, or from a non-permitted municipal project (“approved C&D collection site”).
 - C&D will be defined to cover materials collected from approved C&D collection sites and shall result from construction, remodeling, repair, or demolition operations. C&D will also include rocks, soils, tree remains, and other plant debris, which results from land clearing or land development operations in preparation for construction. C&D may be mixed materials delivered to a certified or approved C&D processing facility for recycling or may be source separated materials collected for recycling or reuse. C&D may contain only de minimus amounts of solid waste generated at the approved C&D collection site. Tier 3 haulers may transport source separated recyclables, such as cardboard, metals, and plant

materials, from the approved C&D collection sites without a Tier 4 certification if the materials result from the construction, remodeling, repair, or demolition work at approved C&D collection sites.

- For mixed C&D, Tier 3 C&D haulers will be required to use C&D processing facilities certified or approved by the County or other jurisdiction in the County.
- Tier 4, Recyclables and Organics Haulers
 - County will implement a certified hauler system for small recyclers and organics collectors that will be modeled after the City of San Diego's certified recyclables materials collectors (CRMCs) system and provisions. This tier will include the following:
 - 1,000 ton per year limit for collection of source separated recyclables, green waste, food waste, and pallets by CRMCs provided that the material does not contain greater than ten percent by volume of solid waste.
 - Exclusion of Tier 1 and 2 haulers from securing Tier 4 certification, since their right to collect recyclables and organic materials will be granted through the NEFAs.
 - Several elements of the City of San Diego CRMC requirements that will be similar for the County's Tier 4 haulers including, but are not limited to, the application process, two-year renewal cycle, 90% diversion rate requirement, insurance requirements, and quarterly reporting requirements for organic materials and annual reporting for recyclables (which present locations served, service levels, monthly tonnage collected, and processing facility information).
 - Tier 4 haulers may charge customers for service, and such charges will not be regulated by the County.
 - These haulers will not pay franchise fees or other fees to the County with the exception of certification application and renewal fees.
- Hauling activities excluded from the scope of Tier 1, 2, and 3 NEFAs are listed at the end of this Concept Paper in the section titled "Other Modifications to the NEFAs".
- Franchise fees
 - The per-ton franchise fees currently in place will apply to Tier 1, 2, and 3 haulers.
 - Franchise fees will be assessed on all tons collected excluding source separated inerts.
- Term of NEFAs – The term of the Tier 1 and 2 NEFAs will continue with the rolling 10-year term; and, the term of the Tier 3 NEFAs will be set at 3 years with unlimited one-year extensions at the County's sole discretion.
- Form of NEFAs – The SWMAs will be amended and replaced with new NEFAs to reflect that the scope of these agreements is broader than solid waste. A standard NEFA will be developed that includes requirements that are common for Tier 1, 2, and 3 haulers and requirements specific to each Tier. This will allow the County to manage one standard agreement rather than separate agreements for each Tier.
- Administration Costs – The County's cost of administering the NEFAs will be funded through franchise fee revenues.

NEFA Transition Process for Current SWMA Haulers

- The current SWMA haulers will be required to submit a form documenting their intention to be a Tier 1 or 2 hauler; identifying proposed consolidation of multiple NEFAs under a parent company; and presenting other information to be determined by the County such as number of accounts served and number and type for collection vehicles in operation.
- Current SWMA haulers will not be required to pay an application fee because the County has already determined these companies are qualified to perform the services and will forego the application fee in consideration of the benefits of consolidation of the NEFAs. If the County accepts applications for new Tier 1 and/or 2 haulers in the future, an application fee will be determined at that time.

Application Process for New Haulers

- C&D haulers
 - Haulers interested in collecting C&D under a Tier 3 NEFA will be required to submit an application and pay an application fee.
 - County will set the amount of application fee based on the cost of staff time required to review the application, approve the application, and arrange for execution of each NEFA. The application fee may range from \$400 to \$1,500 per C&D hauler application.
- Establish application review process, eligibility criteria, and appeal process if application is denied. Examples of eligibility criteria include:
 - Completeness, accuracy, and validity of application;
 - Submittal of signed NEFA with no exceptions (unless approved by the County);
 - Insurance provisions consistent with requirements;
 - No litigation and regulatory issues are deemed to be of material concern by County Counsel;
 - History of violations with applicable law, such as violations related to operations of heavy duty fleets or solid waste facilities;
 - History of civil or criminal convictions that may compromise the public's interest; and,
 - Satisfactory reference checks (optional).
- Define enrollment period(s)
 - Initially, set a one-month application period for Tier 3 haulers (during the period following Board adoption of the Tiered-Hauler System ordinance changes and the effective date of the Tiered System). Three months following the effective date of the Tiered System, allow for open enrollment process for Tier 3 haulers.
 - Structure process for Tier 1, 2, and 3 hauler approval by the Director of Public Works provided the applicant has agreed to the Board-approved standard NEFA terms and conditions.

Enhancements to Hauler Services

To implement the eight programs recommended in the Strategic Plan (shown in Figure 2), several service enhancements, related to collection and public education, are planned for Tier 1, 2, and 3 haulers. Figures 4 through 7 present new service requirements for single-family, multi-family, and commercial customers, C&D services, and other service requirements. All requirements in Figures 4 through 7 are enhancements to current hauler requirements.

The County will define Densely-Populated Service Areas, where Tier 1 service requirements will be more extensive than in the Less Densely-Populated Service Areas. The boundaries of the Densely-Populated Service Areas may be defined by community service area boundaries, zip codes, or some other planning area/district designation.

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Figure 4: Single-Family Service Requirements (Tier 1 Haulers)

	Requirement	Hauler Tier	Compliance Date
1	3-container system for recyclables, organics, and solid waste <u>in densely-populated areas only, with a modified system in rural areas subject to approval by the County</u>	1	January 1, 2020
2	Weekly collection of recyclables, organics, and solid waste <u>with allowance for every-other-week non-putrescible solid waste service in rural areas</u>	1	January 1, 2020
3	Organics collection service to include food scraps, food-soiled compostable paper, and yard trimmings	1	July 1, 2021
4	Offering of at least three solid waste cart sizes (e.g., 32, 64, and 96-gallon carts)	1	January 1, 2020
5	Minimum weekly capacity of 64 gallons each for recycling and organics (exceptions for space constraints, disabled customers, or customers who have on-site composting, hardscapes, or xeriscapes)	1	January 1, 2020
6	Compliance with minimum container labeling requirements	1	January 1, 2022 for new containers; January 1, 2025 for existing containers
7	Contractor-provided carts with consistent color scheme exceptions, subject to County approval, may be considered for home owner associations or other unique properties that request different container types	1	January 1, 2022 for new containers; January 1, 2032 for all containers
8	Pay-as-you-throw rate structure that provides: (i) a bundled rate for recycling, organics, and solid waste collection; and (ii) minimum monthly rate differential between solid waste cart sizes (e.g., \$4 to \$10 differential)	1	January 1, 2020
9	Expanded list of recyclables over time as processing/markets are viable (e.g., plastic bags, e-waste peripherals, rigid plastics, hard cover books, scrap metal/aluminum under 40 pounds, and textiles)	1	As needed
10	Bulky item and re-use collection pick-ups specifying minimum program requirements such as two pick-ups per year, minimum material types to be collected, minimum diversion requirements through reuse or recycling, minimum volume to be collected per household, etc. in densely-populated areas as part of the base service rate	1	January 1, 2020
11	Expanded public education including, but not limited to: annual service guide; semi-annual newsletters; bill inserts; and contamination tags	1	January 1, 2020

Figure 5: Multi-Family and Commercial Service Requirements (Tier 1 and 2 Haulers)

	Service Requirement	Hauler Tier	Compliance Date
1	3-container system for recyclables, organics, and solid waste <u>in densely-populated areas only, and modified system in rural areas subject to approval by the County</u>	1, 2	January 1, 2020
2	Weekly collection of organics and solid waste <u>with allowance for every-other-week non-putrescible solid waste service in rural areas; and weekly or every other week recyclables collection</u>	1, 2	January 1, 2020
3	Organics collection service to include food scraps, food-soiled compostable paper, and yard trimmings	1, 2	July 1, 2021
4	Bulky item and re-use collection pick-ups specifying minimum program requirements, minimum material types to be collected, minimum diversion requirements through reuse or recycling, etc. in densely-populated areas with allowance for hauler to charge for such service	1	January 1, 2020
5	For multi-family, minimum weekly capacity of 20 gallons per residential unit for recycling and 5 gallons per residential unit for organics (exceptions for space constraints, properties with on-site composting, hardscapes, or xeriscapes). If this results in more service than required by the service ratios below, this requirement shall supersede the ratio requirement.	1, 2	January 1, 2020
6	Minimum recycling/organics service ratios below with some exceptions related to limited space, alternative recycling efforts, and amount and type of solid waste or recyclables/organics generated: <ul style="list-style-type: none"> • Multi-family/mixed use facilities with majority of square footage residential <ul style="list-style-type: none"> ○ 50 units or more: 40% recycling/organics capacity; 60% solid waste ○ Less than 50 units: 30% recycling/organics capacity; 70% solid waste • Commercial/mixed use facilities with majority of square footage commercial <ul style="list-style-type: none"> ○ 10,000 SF or more: 40% recycling/organics capacity; 60% solid waste ○ Less than 10,000 SF: 30% recycling/organics capacity; 70% solid waste 	1, 2	January 1, 2020
7	Contractor-provided containers with consistent color scheme and minimum labeling requirements	1, 2	Refer to Figure 4
8	Expanded list of recyclables over time as processing/markets are viable (e.g., plastic bags, e-waste peripherals, rigid plastics, hard cover books, scrap metal/aluminum under 40 pounds, and textiles)	1, 2	As needed
9	Expanded public education including, but not limited to: annual service guide and semi-annual newsletters for customer/property managers; bill inserts; direct mailer to multi-family units and individual businesses; signs to post in collection container areas/enclosures. Include ongoing education, outreach, and monitoring to comply with the requirements of State AB 341, AB 1826, and SB 1383 and the County’s mandatory recycling requirements.	1, 2	January 1, 2020

Figure 6: C&D Requirements (Tier 1, 2, and 3 Haulers)

	Service Requirement	Hauler Tier	Compliance Date
1	Mixed C&D materials to be processed at a C&D processing facility certified or approved by County or other city in the County that meets minimum diversion requirements established by the County (refer to Figure 8)	1, 2, 3	Effective date of NEFA
2	Maximum contamination or residue levels of 10% for source separated materials	1, 2, 3	Effective date of NEFA
3	Educational information and drop box signage for customers identifying allowable and non-allowable materials	1, 2, 3	Effective date of NEFA
4	Providing customers with records that demonstrate compliance with diversion requirements of the County C&D ordinance	1, 2, 3	January 1, 2020

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Figure 7: Other Service Enhancements (Tier 1, 2, and/or 3 Haulers)

	Service Requirement	Hauler Tier	Compliance Date
1	Drop-off facilities for recyclables, used oil and filters, cell phones, batteries, and potentially other materials for the convenience of their customers	1	January 1, 2020
2	Expand use of clean fuel vehicles, which includes the following: 5%-20% biodiesel; traditional CNG/LNG; renewable CNG; electric)	1	January 1, 2021
3	Contamination inspection program with customer tagging, noticing, and reporting	1, 2, 3	January 1, 2020
4	Processing of all yard trimmings for diversion and prohibition of use as alternative daily cover (ADC), in recognition of State regulations (AB 1594) that establishes that ADC does not count as diversion	1, 2, 3	January 1, 2020
5	Minimum recyclables, organics, and C&D contamination and residue standards defined for processing facilities	1, 2, 3	Effective date of NEFA
6	Consistent color scheme and labeling for containers and signage (with labeling requirements to comply with SB 1383)	1, 2, 3	Refer to Figure 4

Diversion Requirements

During stakeholder engagement conducted for the Strategic Plan, haulers supported the County’s 75% diversion goal and expressed interest in ensuring that a level-playing field among the haulers was conveyed to the County. In particular, haulers expressed interest in ensuring that one or two companies could not gain an advantage over responsible companies by short-cutting recyclables collection and processing. To level the playing field and to support achievement of the County’s diversion goal, the County plans to establish diversion standards for the Tier 1, 2, and 3 haulers and monitor the diversion results against the standards. Below is a description of the minimum diversion requirements and consequences for failure to achieve them.

Minimum Diversion Requirements

Hauler diversion efforts will be monitored by the County. These efforts will be monitored through hauler reporting, which will include reporting of the monthly recyclables, organics, solid waste, and C&D tonnage collected, processed, and residue disposed, as well as calculation of the monthly diversion level for each month. For Tier 1 and 2 haulers, the monthly diversion level shall be calculated as the total recyclables and organics tonnage collected less residue, which is then divided by the total recyclables, organics, and solid waste tonnage collected. For Tiers 1, 2, and 3 haulers, the C&D diversion level will be calculated separately and will be equal to C&D tonnage collected less residue, divided by the total C&D tonnage collected. The annual diversion level shall be calculated and will be compared to the minimum diversion level requirements in Figure 8 to determine hauler compliance.

It is estimated that the haulers providing Tier 1 level of service currently divert approximately 24% of materials collected and haulers providing Tier 2 level of service divert about 36% of materials collected.³ Figure 8 presents the minimum diversion levels for the Tiered-Hauler System, which build up from these current diversion levels. For Tiers 1 and 2, the County has phased diversion requirements over several years to allow haulers time to change their collection practices, implement the new program requirements, increase customer participation in diversion programs, and/or secure processing capacity. For C&D haulers (Tiers 1, 2, and 3), the initial minimum diversion level matches CALGreen C&D diversion requirements and may be increased over time as C&D processing facilities increase recovery levels.

Figure 8: Minimum Diversion Level (%)

	Tier 1 Full-Service Hauler Diversion (a)	Tier 2 Multi-Family/ Commercial Hauler Diversion (a)	Tier 1, 2, and 3 C&D Hauler Diversion
2015 average ³	~ 24%	~ 36%	Unknown
2018 suggested targets (b)	30%	40%	65% of C&D and 100% of excavated soil and land clearing debris
2019 suggested targets (b)	30%	40%	Same
2020	35%	40%	65%, or 75% of C&D when conditions in note (c) are met; 100% of excavated soil and land clearing debris
2021	40%	40%	Same
2022	40%	40%	Same
2023	45%	45%	Same
2024	45%	45%	Same
2025 and beyond	50%	50%	Same

- (a) For Tier 1 and 2 haulers, the diversion level shown in Figure 8 reflects the diversion level for recyclables, organics, and solid waste. These haulers will also be required to achieve the C&D diversion requirements stated above.
- (b) In 2018 and a portion of 2019, the new NEFAs will not be in effect. Suggested diversion targets are provided to encourage Tier 1, 2, and 3 haulers to begin working towards the 2020 goals.
- (c) C&D diversion requirements initially match CALGreen recycling requirements for construction and demolition projects. C&D diversion requirements will increase to 75% when a certified or approved C&D processing facility or transfer station (that accepts C&D for delivery to a certified or approved C&D processing) within 25 miles of the approved C&D collection site has been achieving 75% diversion for at least 9 consecutive months and 30-days advanced notice is issued by the County.

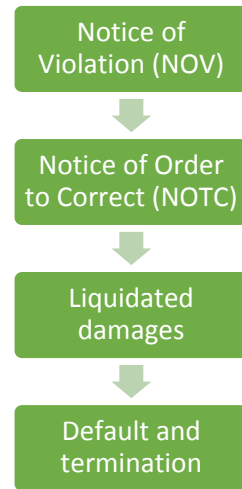
³ Hauler diversion estimates are based on reported recyclables, organics, and solid waste collected in 2015 less estimated residue tonnage equal to 10% of recyclables and organic materials collected.

Consequences for Non-Compliance with Diversion Requirements

The County proposes a multi-step compliance process in the event a hauler's annual diversion level does not meet the minimum requirements. The multi-step process is intended to give haulers an opportunity to adjust their programs and recognizes that, in non-exclusive systems, changes in hauler customer bases can have temporary and negative impacts on their diversion rates. Proposed steps, which are modeled after SB 1383 draft enforcement provisions, include the following:

1. For a first offense:

- a. The County will issue a Notice of Violation (NOV) requiring hauler demonstration of compliance. To the extent practical, the County shall issue the NOV no later than 30 days after determining the hauler's first violation. Compliance following issuance of the NOV shall be demonstrated through determination of the calculated monthly diversion level for the upcoming three-month period that equals or exceeds the minimum diversion level.
- b. If the hauler's diversion level for the upcoming three-month period does not meet or exceed the minimum diversion level, the County will issue a Notice of Order to Correct (NOTC) that requires compliance. To the extent practical, the County shall issue the NOTC no later than 30 days after receipt of the report for the completed three-month period following issuance of the NOV. The NOTC shall include a corrective action plan specified by the County and the potential penalties for failing to comply. If the hauler wants to propose an alternative correction action plan, the hauler may request to meet and confer with the County. Hauler diversion compliance following issuance of a NOTC shall be demonstrated through determination of the calculated diversion level for the upcoming three-month period (following issuance of the NOTC) that equals or exceeds the minimum diversion level.
- c. If the hauler diversion level is not in compliance for three-month period following issuance of the NOTC, the County shall commence action to assess liquidated damages until such time the hauler achieves the minimum diversion level.



2. After issuance of a NOTC, County shall monitor hauler's diversion compliance on a quarterly basis rather than an annual basis.
3. For any subsequent offense within a 24 months of a prior offense, the County shall omit the NOV process (Step 1a) and proceed directly with issuance of an NOTC (Step 1b), and, if necessary, assess liquidated damages (Step 1c).
4. If any period of non-compliance exceeds more than 6 months in any 12-month period, the County may issue a notice of termination (provided that it has followed the above NOV and NOTC steps).

Expanded Reporting Requirements

The following reporting enhancements are proposed for inclusion in the NEFAs:

1. Detailed Customer Information. Tier 1 and 2 NEFAs reporting requirements be expanded to include annual submittal of detailed single-family, multi-family, and commercial account information including solid waste, recyclables, and organics service levels and customer service addresses. This data will allow the County to determine the number of residential and commercial customers voluntarily subscribing to collection services and those self-hauling materials.
2. Semi-annual Summary Customer Subscription Data. Tier 1 and 2 NEFAs will include semi-annual submittal of summarized subscription data reporting the number of accounts; the number of customers subscribing to each cart, bin, or roll-off service level listed separately for single-family, multi-family, and commercial and separately for solid waste, recyclables, and organics service; and the number of bulky item collections performed. Having access to this data will allow the County to assess changes in the subscription levels and diversion capacity with diversion program implementation and to analyze the customer subscription levels. Tier 3 NEFAs will include semi-annual submittal of summarized subscription data reporting the number of C&D roll-off service pulls performed by container size listed separately by material type (e.g., mixed C&D, wood, dirt, concrete, metal, etc.).
3. Education and Outreach Report. Tier 1 NEFAs will require submittal of an annual public education plan that lists each planned public education activity and anticipated completion date. Quarterly reports will be required to include a status reports of education activities completed compared to the annual public education plan.
4. Pilot and New Programs Report (if applicable). For Tier 1, 2 and 3 NEFAs, for pilot diversion and/or new diversion programs, provide program reports, at a frequency agreed-upon by the County, presenting goals, milestones, results, and accomplishments. The County is seeking input on how this reporting process can be structured in a way that encourages haulers' creativity in programs, yet maintains the confidentiality of haulers' information.
5. Monthly Data Submitted on a Quarterly Basis. For Tier 1, 2, and 3 NEFAs, haulers' quarterly reporting requirements (pursuant to Section 7.3.2) will specify reporting of monthly tonnage data for each month in the most-recently completed 12-month period (rather than reporting quarterly tonnage data). In addition, reports shall separately present monthly organics, recyclables, and C&D tonnage data.

Enhanced Performance Standards and Liquidated Damages

The SWMAs do not contain specific performance standards and accompanying liquidated damages for enforcing day-to-day performance under the agreement related to fulfillment of diversion-related services. The new NEFAs will include such standards, liquidated damages, and additional specific default provisions to provide tools for managing the haulers' diversion program performance. Example diversion-related performance standards include, but are not limited to, compliance with the following service requirements and performance standards. The attachment includes an example of performance standards from recently executed non-exclusive franchise agreements.

- Minimum diversion rate;
- Three-cart requirement in densely-populated areas;
- Pay-as-you-throw requirements;
- Minimum commercial and multi-family recycling/organics service level ratios;

- Processing and diversion of recyclables, organic, and C&D materials;
- Maximum residue levels for processing recyclables, yard trimmings, food scraps, and C&D;
- Prohibition on use of organics as landfill alternative daily cover;
- Consistent container color and labeling to comply with SB 1383, and minimum signage standards;
- Performance of education and outreach efforts;
- Performance of contamination monitoring; and,
- Reporting.

The new NEFA will include additional default provisions to emphasize the importance of achieving the minimum diversion level described in the above Diversion Requirements section as well as a default provision for assessment of an excessive or repeated liquidated damages.

Other Modifications to NEFAs

To implement the proposed hauling system modifications, the County plans to make the following additional changes to the NEFAs.

1. Definitions – Add new definitions and amending others to support contract changes.
2. Focus on broader set of materials – Shift the focus from a solid waste agreement to an agreement that addresses recyclables, organics, solid waste, and C&D.
3. Changes in composition and quantities – Acknowledge the County right to implement new diversion programs that may change composition and quantities of materials.
4. Limitations of scope – The following modifications shall be made to “Limitation of Scope” in Section 3.5 of the NEFAs to recognize that other persons, in addition to the Tier 1, 2, and 3 haulers, may collect the materials listed below. The County reserves the right to make additional modifications to this language when drafting the new NEFAs. The changes below are shown in redline/strike-out format to illustrate proposed changes to the current NEFA Section 3.5 language.
 - A. Group of Single-Family Premises on Private Streets. All residential solid waste, recyclable materials, and organic materials ~~refuse~~ collected as part of a group of single family residential owners or tenants when residences, not to exceed 10 units, lie within a single boundary served internally only by private streets.
 - B. ~~All recyclable materials.~~ Recyclable and Organic Materials Hauled by Other Persons. Other Persons shall maintain the right to collect Recyclable and Organic Materials from service recipients, but only if such Persons: (a) do not directly or indirectly charge the service recipient a monetary sum or other consideration for provision of such service; (b) pay the service recipient a net payment for the receipt of such Recyclable or Organic Materials or accept such materials as a donation; and (c) provide written documentation to the County upon its request that such Persons meet the foregoing requirements.
 - C. Beverage Containers. Containers delivered for recycling under the California Beverage Container Recycling Litter Reduction Act, California Public Resources Code, §14500, et seq.

- D. Materials Removed as Incidental Part of Services. Solid Waste, Recyclable Materials, Organic Materials, and/or C&D may be removed from a Premises by a contractor (e.g. gardener, landscaper, tree-trimming service, construction contractor, residential or commercial on-property clean-out service, document shredding service provider) as an incidental and a minor part of the service being performed (rather than a hauling service). ~~Green material removed from a premise by a property owner or tenant or by a gardening, landscaping, or tree trimming contractor as an incidental part of total service offered by that contractor rather than as a hauling service.~~
- E. Organic Materials from Agricultural Operations. Organic materials removed from a premises by an agricultural operation and transported to another agricultural operation for a purpose other than disposal.
- F. Self-Hauled Materials. Solid waste, recyclable materials, organic materials, and C&D that is generated at any premises and which is removed and transported by a person who owns, leases, rents or has legal access to such premises (or in the case of a business or the County by the owner, principal, or partner of the business or his/her bona fide employees using a vehicle owned or leased by the business or County) to an approved ~~solid waste disposal~~ facility.
- ~~F. Loads containing 90% or more construction and demolition waste or debris.~~
- G. Hazardous Waste and Medical Waste. Hazardous waste and medical waste, regardless of its source.
- H. Sewage Treatment By-Products. By-products of sewage treatment, including sludge, sludge ash, grit, and screenings.
- I. Processing Residue. Residue or non-putrescible waste from a solid waste management facility, including recycling, material recovery, composting, and transformation facilities.
- J. Animal Waste Used for Tallow. Animal waste and remains for use as tallow.
- K. Manure. Source separated manure transported by person(s) separately from any other materials for a purpose other than disposal.
- L. Community Clean-Up Materials. Solid waste, recyclables, organics, and C&D collected in the course of a community clean-up campaign.
- M. Solid or Semi-Solid Byproducts. Solid or semi-solid byproducts of food and beverage processing that are collected for use as livestock feed including, but not limited to, spent brewery grains and fruit pulp that is self-hauled, hauled by the generators employees, or by a person that collected the materials for their direct use.

- N. Liquid By-Products. Liquid by-products of food or beverage processing including, but not limited to, used cooking oil and pumpings from grease traps, which are source separated from food material and solid waste for the purpose of disposal or recycling.
 - O. Edible Food. Food collected and transported by persons such as food rescue organizations for the purpose of providing edible food for human consumption.
 - P. Donated Materials. Any items that are donated by the generator to youth, civic, or other charitable organizations may be transported by other Persons, provided that the generator is not charged any monetary sum or other consideration for such services.
 - Q. Reusable Items. Items that are donated or sold by the generator for the purpose of reuse.
 - R. Materials Hauled by Tier 4 Haulers. Recyclable materials, green waste, food waste, and pallets collected by Tier 4 certified haulers within the 1,000 ton per year limit.
 - S. Materials Generated by Public Schools and State. Materials generated by public schools and State facilities (including without limitation, State buildings, offices, parks, and universities) may be transported by other Persons, provided that the generator has arranged services with such other Persons or has arranged services with the Contractor through a separate agreement.
5. Transfer, Processing, and Disposal Facilities – The following conditions shall be added to the NEFAs:
 - a. Require identification of the transfer, processing, and disposal facilities hauler will use;
 - b. Require guaranteed transfer, processing, and disposal capacity throughout the term;
 - c. Require delivery of mixed C&D to certified C&D processing facilities, that have residue rates certified by the County or a city in San Diego County;
 - d. Reserve County right to require recyclables and organic materials be delivered to approved processing facility(ies) with maximum residue levels ; and,
 - e. Specify that hauler use of mixed materials processing must comply with SB 1383 requirements.
 6. Generator compliance – For Tier 1 and 2 haulers, if hauler provides solid waste collection service to multi-family, commercial, and industrial customers, it shall provide recycling and organics service or obtain and present generator-provided documentation that generator is securing services from other haulers, self-hauling, or backhauling.⁴
 7. Report of accumulated waste – For Tier 1 and 2 haulers, require reporting of addresses where excess waste has accumulated or was illegally dumped.
 8. County Ordinance – Amend County ordinance to reflect changes in the hauling system including, but not limited to: the Tiered-Hauler System; aligning definitions with NEFA; expanding focus to include not only solid waste but also recyclables, organics, and C&D, etc.

⁴ Model provision similar to the City of San Diego Section 4.1 of its NEFA, and Section 5.4 of Second Amendment to the NEFA.

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ATTACHMENT EXAMPLE PERFORMANCE STANDARDS AND LIQUIDATED DAMAGES

(Note: The following example performance standards were obtained from several agreements as noted in the table. This exhibit is provided for illustration purposes only. Some items shown here may not be applicable to the County of San Diego's Tiered-Hauler System and other items not included may need to be added. Furthermore, the County of San Diego's performance standards may include items applicable to all Hauler Tiers and some applicable to specific Hauler Tiers.)

Contractor may be assessed Liquidated Damages if Contractor fails to fulfill its obligations with regards to the events listed in this Exhibit in accordance with the terms and conditions of the Agreement with regards to the time frame for accomplishing each event and nature of the responsibility associated with the event unless otherwise stated in this Exhibit.

	Event of Non-Performance	Liquidated Damage	Source
1	Notice of Availability of Services. Failure to notify any Customer of the availability of Recycling, Organics, and/or C&D Collection service upon Customer request of Solid Waste Collection services.	\$100/ event	County of Santa Cruz Non-Exclusive Roll-Off Agreement
2	Leaks, Litter, or Spills. For each occurrence over five during a calendar year of unreasonable leaks, litter, or spills of Permitted Materials near or on public streets and failure to pick up or clean up such material immediately.	\$300/ event	County of Santa Cruz Non-Exclusive Roll-Off Agreement
3	Unauthorized Collection Hours. For each occurrence over five during a calendar year of Collecting Permitted Materials during unauthorized hours.	\$300/ event	County of Santa Cruz Non-Exclusive Roll-Off Agreement
4	Labeling of Roll-Off Containers. For each occurrence of Contractor's failure to correctly label Contractor-owned Roll-Off Containers (in accordance with Section 6.4.C).	\$500/ event	County of Santa Cruz Non-Exclusive Roll-Off Agreement
5	Monthly Reports. Failure to submit monthly reports in the timeframe specified in this Agreement.	\$300/ day	County of Santa Cruz Non-Exclusive Roll-Off Agreement
6	Report Hazardous Waste. For each failure to notify the appropriate authorities of reportable quantities of Hazardous Waste.	\$500/ event	County of Santa Cruz Non-Exclusive Roll-Off Agreement
7	Failure to Divert Material. For each failure to deliver Construction and Demolition Debris for Processing and Diversion consistent with the FRANCHISEE's agreement with a Customer.	\$500/ ton	City of Oakland C&D NEFA

	Event of Non-Performance	Liquidated Damage	Source
8	Failure to Achieve Diversion Level	1st ever occurrence: \$20/ ton for every ton under the full compliance requirement. 2nd ever occurrence: \$25/ ton for every ton Subsequent occurrences: \$30/ ton	City of San Diego Non-Exclusive Franchise Agreements
9	High Diversion Level. Failure to achieve the target High Diversion level in any given year (where the target is agreed upon by the Parties when the change in scope is approved for implementation of High Diversion Services). (This Liquidated Damage is applicable only upon commencement of High Diversion Services.)	\$50/ ton not Diverted that needed to be Diverted to achieve the target High Diversion level.	Central Contra Costa Solid Waste Authority Franchise Agreement for Collection, Transfer, Processing, Diversion, and Disposal Services
10	Unauthorized Facilities. For each individual occurrence of Delivering materials to a Facility other than the Approved Facilities or Designated Facilities as designated for each material type under this Agreement.	\$500/ Ton	Central Contra Costa Solid Waste Authority Franchise Agreement for Collection, Transfer, Processing, Diversion, and Disposal Services
11	Unauthorized Disposal. For each individual occurrence of Disposal rather than Processing of Franchised Organic Materials set out for Collection by the Subscriber.	\$500/ Ton	Central Contra Costa Solid Waste Authority Franchise Agreement for Collection, Transfer, Processing, Diversion, and Disposal Services
12	Failure to Perform Public Education and Outreach. For each failure to perform public education and outreach activities as required by this Agreement.	\$300/ event	City of Oakland C&D NEFA
13	Failure of Other Obligations. Failure to perform any of the obligations set forth in this Agreement not specifically stated above and not corrected or proceeding in good faith to correct within 24 hours upon 24 hour notification by County.	\$150/ for each obligation per day until obligation is performed	County of Santa Cruz Non-Exclusive Roll-Off Agreement