

CHAPTER 8.05

REGULATION OF BIOSOLIDS LAND APPLICATION

8.05.010 PURPOSE AND INTENT

There are numerous unanswered questions about the safety, environmental effect, and propriety of land applying Biosolids or sewage sludge, even when applied in accordance with federal and state regulations. Biosolids may contain heavy metals, pathogenic organisms, chemical pollutants, and synthetic organic compounds, which may pose a risk to public health and the environment if improperly handled. There is a lack of adequate scientific understanding concerning the risk land applying of Biosolids may pose to land, air and water and to human and animal health. It may cause loss of confidence in agricultural products from Kern County as well as the potential loss of productive agricultural lands. There is also substantial scientific evidence demonstrating the clear potential for adverse impacts. Therefore, the continuation of this practice will unreasonably and unnecessarily jeopardize the public and the environment. Consequently, in order to promote the general health, safety and welfare of Kern County and its inhabitants, it is the intent of this chapter that the land application of Biosolids shall be prohibited in the unincorporated area of Kern County.

The County recognizes there are existing permitted sites involved in the land application of Biosolids. Consistent with the protection of private property rights under the United States and California constitutions, this ordinance contains a three year amortization period to permit the orderly discontinuation of the land application of Biosolids by January 1, 2003.

The County also recognizes that Exceptional Quality Biosolids, as defined in this chapter, are considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land. Therefore, the provisions of this chapter do not apply to Exceptional Quality Biosolids unless specifically stated herein. Further, the provisions of this chapter do not apply to Compost, as defined herein, manufactured from Biosolids at composting facilities that are otherwise regulated by the County through Solid Waste and Conditional Use Permits.

8.05.020 DEFINITIONS

A. Agency means an authorized representative of the Environmental Health Services Department of the County. The Agency will work in concert with the Agriculture Commissioner to establish a GIS tracking system and data base for all county regulated Biosolids land application activities.

B. Agricultural Land means cropland with an irrigation system and water supply capable of producing crops for commercial agricultural purposes.

C. Agronomic Rate is the Biosolids application rate calculated to provide additional Nitrogen needed for the crop or vegetation grown on the land which is not provided by background soil Nitrogen and Nitrogen to be applied through mineral fertilizers. This application rate shall be designed to minimize the amount of Nitrate Nitrogen that passes below the rootzone of the crop or vegetation into groundwater.

D. Applier is any person engaged in the Land Application of Biosolids.

E. Biosolids are treated solid, semi-solid or liquid residues generated during the treatment of sewage in a wastewater treatment facility that meet 40 CFR Part 503 requirements specified in 503.32(b) for pathogen reduction, 503.33 for vector attraction reduction, and 503.13, Table 1 for pollutant concentrations. These residues include, but are not limited to, scum or solids removed in primary, secondary or advanced wastewater treatment processes but do not include grit and screenings generated during preliminary treatment of sewage. Biosolids as used in this chapter excludes Biosolids products that are in a bag or container packaged for routine retail sales through regular retail outlets which are primarily used for landscaping.

F. Biosolids Impact Fee means the fee per ton of Biosolids charged to Biosolids applicators for mitigating the impacts to the Kern County infrastructure shown to be caused by the transport of Biosolids. Permittees which can establish the lack of impact on County infrastructure shall be exempt from payment of the fee.

G. Certified Laboratory means a laboratory certified by the state department of health services pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the California Health and Safety Code.

H. Class A Biosolids are Biosolids that meet the pathogen reduction requirements in 40 CFR 503.32 and contain constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13, Table 1 or Table 3.

I. Class B Biosolids are Biosolids that meet the pathogen reduction requirements in 40 CFR 503.32(b).

J. Compost means the product resulting from the controlled biological decomposition of organic materials which may include Biosolids. Facilities where compost is produced are required to obtain Solid Waste Facilities and Conditional Use Permits as a condition of operation. Compost products are required to meet or exceed product quality criteria as established by the California Integrated Waste Management Board.

K. County means the County of Kern, State of California.

L. CPLR Biosolids are Cumulative Pollutant Loading Rate Biosolids which are Class A or Class B Biosolids that have achieved a level of vector attraction reduction per 40 CFR 503.33 and that meet the ceiling concentrations in 40 CFR 503.13, Table 1, but exceed at least one (1) of the pollutant concentration limits in 40 CFR 503.13, Table 3, and, therefore, are subject to the Cumulative Pollutant Loading Rates in 40 CFR 503.13, Table 2. Cumulative Pollutant Loading Rate is the maximum amount of a pollutant that can be applied to an area of land.

M. Exceptional Quality Biosolids are Class A Biosolids that meet the pollutant concentrations in 40 CFR 503.13, Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. Additionally, Class A Biosolids must meet both the fecal coliform and Salmonella sp. bacteria limits contained in Alternatives 1 through 6 of 40 CFR 503.32(a) to be Exceptional Quality. For the purposes of this chapter, Exceptional Quality Biosolids are in bulk form and shall not include Compost which meets or exceeds Exceptional Quality criteria.

N. Existing Permit means a permit issued by the Agency prior to the effective date of this Chapter under the authority of the County's urgency interim ordinance regulating the land application of Biosolids (Ordinance G- 6528).

O. Field means a discrete area of land within a Site. It is the smallest unit of land for which monitoring, record keeping and reporting requirements apply.

P. Land Application means the placement of Biosolids on agricultural land at a predetermined agronomic rate to support vegetative growth. For purposes of this chapter, placement includes the spraying or spreading of Biosolids onto the land surface, the injection of Biosolids below the surface, or the incorporation of Biosolids into the soil.

Q. PC Biosolids means Pollutant Concentration Biosolids which meet the pollutant concentrations in 40 CFR 503.13, Table 3 and are either Class A and have achieved one of the levels of vector attraction reduction per section 40 CFR 503.33(b)(9) or (b)(10), or are Class B and have achieved one of the levels of vector attraction reduction per 40 CFR 503.33(b)(1) through (b)(10).

R. Permit means a Land Application Permit issued by the Agency jointly to an Applier and all POTWs or other generators who supply Biosolids to the Applier. Such permit authorizes the Land Application of Biosolids in the County. Permits are not transferrable to other parties without the prior approval of the Agency as provided in Section 8.05.040.R.

S. Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, city, county or other political subdivision, or any other group or combination acting as a unit.

T. POTW means publicly or privately owned treatment works that process wastewater and generate Biosolids.

U. Sensitive Receptors are schools, hospitals, convalescent homes, food establishments, parks and recreation areas, and single and multiple family dwellings.

V. Site means the area of land covered by a single Permit. This land may be a single parcel or contiguous parcels of land with a single Applier. A Site can be comprised of one or more fields.

W. Staging means the placement of Biosolids on a Site for up to forty-eight (48) hours to facilitate the transfer of Biosolids between the transportation and application vehicles.

X. Storage means the placement of Biosolids on a Site for more than forty-eight (48) hours.

Y. Vehicle means trailers in excess of 8,000 pounds gross weight used for the purpose of transporting Biosolids to a permitted Site.

8.05.030 GENERAL REQUIREMENTS

A. Prior to commencing any Land Application activities under this chapter, the Applier shall obtain a Permit and pay all applicable fees. Only Sites with an Existing Permit shall be eligible for issuance of a Permit under this chapter.

B. Before Biosolids are land applied, the Applier shall contact the Agency and Regional Water Quality Control Board to determine whether CPLR Biosolids have been applied to the Field since July 20, 1993 [503.12(e)(2)].

- 1.If CPLR Biosolids have not been applied to the Field since July 20, 1993, the cumulative amount for each pollutant may be applied to the Field in accordance with 40 CFR 503.13, Table 2.
- 2.If CPLR Biosolids have been applied to the Field since July 20, 1993, and the cumulative amount of each pollutant applied to the Field since that date is known, the cumulative amount of each pollutant applied to the Field shall be used to determine the additional amount of each pollutant that can be applied to the Field in accordance with 40 CFR 503.13, Table 2.
- 3.If CPLR Biosolids have been applied to the Field since July 20, 1993, and the cumulative amount of each pollutant applied to the Field since that date is not known, no further Biosolids may be applied to the Field.

C. Soils on all Fields will be sampled and analyzed prior to the application of Biosolids as set forth below. Where land application of Biosolids has occurred prior to the effective date of this chapter, the applicant will submit a current analysis reflecting soil conditions at the time of permit application. All costs associated with sampling and analysis will be paid by the applicant. All results must be included in a report provided to the Agency as part of the submitted application.

1. Soils will be analyzed for the purpose of monitoring environmental considerations and agronomic/fertility parameters.

a. Environmental analyses for the total quantity of metals listed in 40 CFR 503.13, Table 3 will be conducted every 3 years or after every 40 dry tons/acre of Biosolids has been land applied, whichever occurs first. Further, Biosolids land application shall be prohibited on Fields with soils exceeding any of the Table 3 limits. Analyses shall also be made for total dioxins and PCBs. All analyses shall be conducted by a Certified Laboratory.

b. The following agricultural parameters shall be tested for on an annual basis: saturation extract EC (electro conductivity), pH, Calcium, Magnesium, Sodium, Boron and Molybdenum; Olsen's extract for Phosphorous, Ammonium Acetate for Potassium, Cation Exchange Capacity, Total Nitrate-Nitrogen, Sulfate-Sulfur and DPTA Zinc, Copper, Iron and Manganese. These analyses shall be conducted by an agricultural laboratory that is an active participant in the Western States Lab Quality Assurance program or a Certified lab. These analyses will be used to validate the agronomic necessity and viability of the proposed land application of Biosolids.

2. The minimum number of soil samples and sampling depth is as follows:

a. A minimum of one composite sample is required for every 160 contiguous acre site comprised of similar soil types as defined by soil surveys or consultation with the Natural Resources Conservation Service. A minimum of one composite sample for each 40 acres will be required for Sites with highly heterogeneous soil types.

b. Each sample must be a composite of soil cores taken from a minimum of six randomly selected locations representing the average soil conditions in the field. The sampling depth shall be consistent with the depth of incorporation of the Biosolids. Samples for Nitrate-Nitrogen and soluble Molybdenum must be taken to a depth of three (3) feet. Composite tissue samples of forage grown after land application of Biosolids shall be taken at the time the forage is harvested and analyzed for Molybdenum, Copper, and Sulfur. Copies of this analysis shall be provided to the Agency.

D. The wastewater treatment plant generating the Biosolids must have a current waste discharge permit from a Regional Water Quality Control Board or the equivalent permit meeting Clean Water Act requirements applicable in the jurisdiction of the wastewater treatment plant.

E. In order to confirm the quality of the Biosolids being land applied, the following required tests shall be performed by a Certified Laboratory. These tests shall be in addition to that required of the POTW or the Permittee in accordance with Part 503.

1. Random samples as requested by the Agency for Biosolids loads, to be sampled at the staging area prior to land application by the Applier, to include constituents deemed necessary by the Agency to confirm the Biosolids compliance with the requirements of this chapter.
2. Representative samples from each wastewater treatment plant that generates Biosolids to be land applied shall be composited and analyzed each month for constituents to assure compliance with the requirements of this chapter.

F. The application of Biosolids shall be confined to Sites that are permitted and approved by the Agency in accordance with the provisions of this chapter.

G. All Biosolids transported for Land Application within the County shall be in vehicles which meet all applicable California codes and regulations for commercial vehicles and the following requirements:

1. Each vehicle and Biosolids application unit shall have on each side, the identity of the Applier, including the name, address, city and telephone number. Required markings shall contrast sharply with the background and shall be readily legible during daylight from a distance of 50 feet.
2. Vehicles shall be designed and maintained in such a manner as to prevent leakage of liquid or spilling, blowing or loss of material during transportation.
3. Vehicles shall be maintained in a neat and clean condition and in sound mechanical condition. All loads hauled in open-topped vehicles shall be fully tarped. Vehicle exteriors shall be free of Biosolids before entering public roads.
4. All vehicles must meet California Department of Transportation requirements.
5. The vehicle's driver shall be equipped in a manner whereby effective communication with the Applier's office can be maintained.

H. Biosolids Impact Fee.

1. There is levied by the County of Kern a fee of \$3.37 per ton for each ton of Biosolids land applied within the county. The amount of fee shall be calculated based on the monthly activity report as required by section 8.05.070(I) and is to be remitted to the Agency along with the filing of the monthly activity report. Permittees are subject to enforcement action, including revocation of the Permit, for non-payment. Where the Permittee can demonstrate the land application of Biosolids does not have an impact on County infrastructure or roads, the Agency may waive this fee.
2. Permittees, either directly or through the wastewater treatment plant generating the Biosolids to be applied on the Permittee's property, which separately contract with the County or are determined to provide a reciprocal benefit, as determined by the Board of Supervisors, shall be exempt from this fee.
3. Funds generated by this impact fee and other permit fees may be available to fund the following uses: Expenses associated with the inspection of properties within the County which have permits for the land application of Biosolids; development and operation of a GIS tracking system for all Biosolids land applied within the County so that there is an accurate data base containing this information; technical studies and pilot projects which provide additional data on Biosolids land application; correction of any infrastructure deficiencies directly associated with the hauling of Biosolids; and, the cost of public outreach and education programs to ensure that the standards expressed within this ordinance and contained in the federal guidance for the beneficial reuse of Biosolids are adhered to. The budget for the expenditure of the Biosolids Mitigation Fund on mitigating the impact of Biosolids land application within the County, as set forth above, shall be prepared by the Director of the Resource Management Agency for approval by the Board of Supervisors annually.

I. The Agency shall be allowed, whether announced or not, to enter and inspect all Sites where Biosolids are being or have been land applied. The Agency shall, during normal business hours, have access to and may copy any records that must be kept under the provisions of this chapter.

8.05.040 PERMIT APPLICATION

A. It shall be unlawful for any person to apply Biosolids to land within the unincorporated area of the County without obtaining a Permit from the Agency and being in compliance with the terms and conditions as stated herein.

B. The application for a Permit shall be filed with the Agency on an application form furnished by the Agency, accompanied by an eight thousand dollar (\$8,000) fee. The application shall include the following information:

1. The name and address of the applicant, Applier, the property owner or leaseholder, and the farm manager; and
2. The address, legal description or other sufficient identifying description of the property;
3. A map of the property having a minimum scale of 1:1,000 indicating the following:
 - a. Means of access;
 - b. The location of the proposed land application Fields within each Site;
 - c. All potable water wells, drinking water supplies, and buildings, including the identification of any buildings which are owned by the applicant, within 1,000 feet of the Site;
 - d. The location of property boundaries identifying the names and addresses of all contiguous landowners;
 - e. All surface water bodies and their water quality classification within 1,000 feet of the Site, including 100-year flood elevations;
 - f. The location of any publicly operated groundwater recharge facilities within 1 mile of the property;

- g. All drainage swales within 500 feet of the Site;
 - h. The location of all test pits, soil borings or soil sample points;
 - I. The location of any wetlands, including their classification, and flood plains within 1,000 feet of the Site; and
 - j. The direction of the prevailing wind.
4. The depth to bedrock and seasonal high groundwater and the source of this information.
 5. A description of surface drainage patterns at the Site.
 6. The name and address of the source(s) of the Biosolids to be applied, the level of pathogen treatment for each source, a description of vector attraction reduction methods used and the level of pollutant concentrations for pollutants in Table 1 of 40 CFR 503.13; and
 7. A description of the irrigation system, water supply to be used on the property, and the amount of water, expressed in acre feet per acre, necessary to produce the crop(s) to be grown; and
 8. A listing of the expected crops to be grown on each Site;
 9. Copies of all original laboratory tests for any tests required to be performed prior to the initial application of biosolids as required by Section 8.05.030.C.
 10. A description of all surface water protection measures.
 11. Such additional information as may be required by the Agency to facilitate any required investigation. Where information or documentation has been previously submitted for an Existing Permit or renewal of a Permit, where the information is current, the agency may waive the requirement for submittal of information required by this Section.
- C. The person filing the application shall sign a statement under penalty of perjury that the facts stated in the application are true and correct and that all information required has been set forth in the application. The owner or authorized representative of the property shall also sign the application acknowledging the intended use to be made of the property. The person filing the application shall also provide a signed statement from each Biosolids POTW proposing to supply Biosolids to the Applier for land application in Kern County acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter.
- D. Applicants shall be notified of incomplete or inaccurate applications within twenty (20) working days after the date of the filing of the application. The applicant shall make the necessary corrections and additions and resubmit the application within thirty (30) calendar days of notification. The Agency shall evaluate the information provided in the application to determine whether or not the land application proposal will be in compliance with the applicable requirements of this chapter.
- E. The Agency shall have fifteen (15) working days after the date of filing of a complete application to approve or deny all complete and accurate applications. If an application is denied, the applicant may amend the application and resubmit the amended application within thirty (30) calendar days of the date on which the denial was mailed to the applicant. Such submittal of an amended application is not subject to an additional fee.
- F. Written notice of the denial of a Permit shall be delivered in person or by U.S. Mail, postage prepaid, to the applicant at the address on file with the Agency.
- G. The Agency may deny an application for one (1) or more of the following reasons:

1. Prior significant non-compliance with local, state or federal regulations or permits related to the land application of biosolids.
2. Inadequate, incomplete, or inaccurate application information.
3. The land application proposal would not be in conformance with the applicable requirements of this chapter.

H. The Agency shall issue the Permit within twenty-four (24) hours of approving the application.

I. Permits shall be reviewed annually from the date of issuance, or reissuance. Permit review and reissuance are subject to the following:

1. A Permit does not expire at the end of one (1) year absent an express permit term or condition limiting the period of the Permit.
2. The Agency shall notify the Applier sixty (60) calendar days before the Permit is due for review.
3. No fewer than thirty-five (35) calendar days before the Permit is due for review, the Applier shall submit a certification that the information contained in the Permit is current, or shall file a new application pursuant to Section 8.05.040.B.
4. If the Applier files a certification as specified in Subsection I, the Agency shall reissue the Permit upon payment of the annual fee.

J. A Permit may be revoked by the Agency when the Applier has violated any provision(s) of this chapter or any federal/state laws or regulations related to the land application of Biosolids, or violated a provision(s) of any permit issued by the Regional Water Quality Control Board, or other state agency with jurisdiction, related to the land application of Biosolids. If the Agency intends to revoke the Permit, a written notice to this effect shall be delivered in person or by certified mail to the mailing address of the Permit applicant. The written notice shall state the grounds for the proposed revocation. The revocation shall become effective ten (10) days after service of the notice unless the Permit holder files an appeal with the Board of Supervisors within that time period.

K. The applicant may appeal a denial or revocation of a Permit. Any appeal or revocation shall be made to the Board of Supervisors by filing a written request for a hearing before the Board of Supervisors with the Clerk of the Board not more than ten (10) calendar days after notice of the proposed denial or revocation has been delivered. Upon receipt of a written request for a hearing, the Clerk of the Board shall set the matter for public hearing on a date not more than sixty (60) calendar days following receipt of such written request, and shall give the Permit applicant and the Board of Supervisors at least thirty (30) calendar days written notice of the time, date, and place of the hearing. After the hearing, the Board of Supervisors shall issue its written decision and findings on the appeal within thirty (30) calendar days after the close of the hearing.

L. The Agency may temporarily suspend any Permit issued under this chapter, prior to any hearing when, in the opinion of the Agency director, such action is necessary to protect the residents of the County from immediate threats to health and safety. The Agency shall notify the Permit holder of the temporary suspension and the effective date thereof and at the same time shall set the matter for hearing as soon as possible before the Board of Supervisors as set forth in Subsection K herein. The temporary suspension shall remain in effect until the Board of Supervisors has taken final action on the merits.

M. Fees to review and process Permit applications, appeal an action of the Agency, as specified herein, inspect Sites, engage in enforcement activities and compensate for infrastructure impacts shall be established by the Board of Supervisors.

N. A permit and payment of permit fees, as set forth in this section, shall not be required by or from persons who apply to land or who produce, store, transport, distribute or sell Exceptional Quality Biosolids within the County.

O. Persons who produce Exceptional Quality Biosolids in the County in bulk form shall submit written

report on a form provided by the Agency of their activity to the County on a monthly basis. Said report shall include a summary of the quantity in wet tons of Biosolids hauled from each source per day and total quantities in both wet and dry tons per month. In said report, the person shall declare, under penalty of perjury, that the Biosolids such person is producing are exempt from the permitting and other requirements of this chapter, except as stated, because they are Exceptional Quality Biosolids.

P. Where an Existing Permit has been issued, the Applier shall submit to the Agency a signed statement from each Biosolids POTW supplying Biosolids to the Applier for land application in Kern County acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter. Upon receipt of such signed statements, the Agency shall issue a new Permit to the Applier.

Q. Whenever an applier proposes to accept Biosolids from any POTW not included in the original permit application, the POTW shall provide a signed statement acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter prior to the Applier accepting Biosolids from that POTW.

R. No Permit may be transferred without the prior approval of the Agency. The Agency shall review a request for transfer of a Permit using such criteria as it deems necessary to assure that the proposed transferee would qualify for the approval, in the first instance, for issuance of a Permit and is capable of complying with the conditions of the Permit and the requirements of this Chapter. The Agency shall not unreasonably withhold its consent to the transfer of any Permit. Denial of any request for the transfer of a Permit may be appealed to the Board of Supervisors following the procedures provided for appeal of the denial or revocation of a Permit under Subsection K herein.

8.05.050 MANAGEMENT PRACTICES

A. Transportation, Storage and Land Application of Biosolids shall not degrade the groundwater or surface water.

B. Discharge of Biosolids to surface waters or surface water drainage courses is prohibited and all Biosolids shall be confined to within the boundaries of the Site.

C. All irrigation tailwater on Sites utilized for Biosolids application shall be maintained on the permitted Site and shall not be allowed to flow on to adjacent properties, either by means of surface or subsurface flows.

D. Biosolids shall not be applied to soils where depth to groundwater is less than twenty five (25) feet to the soil surface, unless the total dissolved solids of the shallow groundwater exceeds 3,000 mg/l (5,000 µmhos/cm EC) and this groundwater cannot be reasonably expected to supply domestic water. The depth to groundwater shall be determined by the Agency. Biosolids shall not be applied to soils within one hundred (100) feet of any water banking or recharge facilities operated by local or state water authorities, as determined by the Agency.

E. Biosolids shall not be stored on the Site unless approved by the Agency due to adverse climatic or other emergency conditions which prevent application within forty- eight (48) hours. Sites where Biosolids are stored for more than forty-eight (48) hours shall be designed and maintained to contain all storm water falling from a ten (10) year, twenty-four (24) hour storm and to prevent washout or inundation from a one hundred (100) year storm or flood.

F. Transportation, fugitive dust, surface water runoff, storage and Application of Biosolids shall not cause a nuisance, odors, flies or other vectors.

G. Except as otherwise provided, Biosolids shall be applied within forty-eight (48) hours of delivery to the Site and sufficiently incorporated into the soil to a depth which prevents the development of nuisance conditions within twenty-four (24) hours of the application. Upon a showing of good cause, the Agency may grant additional time for incorporation if requested by the Applier when the Agency determines that no

public health, environmental or nuisance conditions will result from the extended time.

H. Bulk Biosolids shall be applied at an application rate that is equal to or less than the Agronomic Rate at all Sites, including Staging areas [503.14(d)]. The County may approve other application rates in conjunction with specific research projects.

I. Agricultural lands receiving Biosolids shall be planted with the appropriate crop for the Agronomic Rate of Nitrogen applied, and be harvested, grazed or disced. If the crop is disced, additional Biosolids may not be applied until a subsequent crop is planted, harvested or grazed.

J. Agricultural lands shall be irrigated in amounts consistent with those listed in the permit application required by Section 8.050.040.

K. Biosolids with a moisture content less than fifty percent (50%) shall not be applied and incorporated when wind gusts are in excess of ten (10) miles per hour.

L. Fields shall be clearly marked with stakes, flags or other prominent markers to indicate application sites and applicable setback distances.

M. Application of Biosolids shall not cause or result in the covering, disturbing or changing any part of a County road or highway or the placing of any obstruction or piling any material on the surface of any County road or highway.

N. Land application of Biosolids within any designated floodway or flowage easements designated by the Reclamation Board of the State of California or floodways shown on maps provided by the Federal Emergency Management Agency (FEMA) is prohibited. Land application of Biosolids is prohibited within any 100 year flood plain as designated by FEMA, unless adequate flood protection measures are in place to protect adjacent properties.

O. No Biosolids shall be applied which contain PCBs in excess of 50 parts per million or dioxins in excess of 10 parts per billion.

P. Before the land application of Biosolids each year, as part of the annual report, a management plan shall be submitted to the Agency. The plan must include: crops to be grown, fields to be used, schedules and methods of application and harvesting, and loading rates. Loading rates must be determined based on the quantity of and heavy metal, nutrient, and persistent organic concentrations of the Biosolids to be applied and the Site characteristics, previous applications of Biosolids, and Nitrogen uptake requirements of the plants to be grown. The management plan shall also demonstrate the mitigation of offsite flows through the facility.

8.05.060 SITE RESTRICTIONS

A. Staging and Storage areas and Biosolids application Sites shall have signs placed at each corner of the field and every one quarter mile (1320 feet). If corners are less than one quarter mile (1320 feet) apart, then one (1) sign shall be placed equidistant between the corner signs. The signs shall contain the following wording "Warning: No Trespassing - Biosolids Applied to this Property within last 30 days" and shall meet the specifications as determined by the Agency. Such signs shall be maintained for a period of at least thirty (30) calendar days after the last application of Biosolids to the Field.

B. All Biosolids staging and storage areas and applications shall be at least:

1. Fifty (50) feet from property lines.
2. Five hundred (500) feet from domestic or public water supply wells.
3. Fifty (50) feet from non-domestic water supply wells.
4. Five hundred (500) feet from occupied residential buildings. However, in the case of the owner's residence on the site, the Agency may waive this set back requirement if requested by the owner.

- 5.Ten (10) feet from agricultural buildings.
- 6.Five hundred (500) feet from Sensitive Receptors.
- 7.Fifty (50) feet from public roads.
- 8.One hundred (100) feet from surface waters (streams, ponds, lakes and marshes, or surface percolation or settling ponds intended for water banking use).
- 9.Two (2) miles from any school site.

Sites where Biosolids are stored shall be located, designed and maintained to restrict public access.

C. The following site restrictions shall be followed after the application of Class B Biosolids:

- 1.Food crops with harvested parts that touch the Biosolids/soil mixture and are totally above the land surface shall not be harvested for fourteen (14) months after application of Biosolids.
- 2.Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight (38) months after application of Biosolids.
- 3.Unprocessed food crops with harvested parts that are totally above the land surface and do not touch the Biosolids/soil mixture shall not be harvested for fourteen (14) months after application of Biosolids.
- 4.Feed crops, fiber crops, oil crops, and processed food crops with harvested parts that are totally above the land surface and do not touch the Biosolids/soil mixture shall not be harvested for thirty (30) days after application of Biosolids.
- 5.Animals shall not be allowed to graze on the land for ninety (90) days after application of the Biosolids.
- 6.Turf grown on land where Biosolids are applied shall not be harvested for one (1) year after application of Biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Agency.
- 7.Public access to land with a high potential for public exposure shall be restricted for one (1) year after application of Biosolids and for land with a low potential for public exposure access shall be restricted for thirty (30) days after the last application of Biosolids.

8.05.070 MONITORING, RECORD KEEPING AND REPORTING

A. Biosolids shall be tested for the pollutants listed in 40 CFR 503.13, total solids, organic-N, ammonia-N, and nitrate-N, PCBs and dioxins at the following minimum frequencies:

Amount of Biosolids¹

dry metric tons per 365 day period(dry tons/yr)Frequency

> 0 but < 290 (<320) Once per year.

> 290 but < 1,500 (320-1,654) Once per quarter (4 times/year)

> 1,500 but < 15,000 (1,654-16,538) Once per 60 days (6 times/year)

>15,000 (>16,538) Once per month (12 times/year)

¹The amount of bulk Biosolids generated by the treatment works that is managed through Land Application.

B. Test results shall be expressed in milligrams per kilogram Biosolids on a one hundred percent (100%) dry weight basis.

C. Analyses shall be conducted using methods as required by 40 CFR Part 503.8.

D. For PC Biosolids, the Applier shall retain the following information for five (5) years after the last

application of Biosolids, in a location approved by the Agency:

1. The concentration of each pollutant listed in 40 CFR 503.13, Table 3 for all land applied Biosolids [503.17(a)(4)(I)(A)].
2. The certification statement (which may be required from the generator of the Biosolids) set forth in 40 CFR 503.17(a)(4)(I)(B).
3. A description of how the pathogen requirements in 40 CFR 503.17(a)(4)(I)(C) are met (which may be required from the generator of the Biosolids).
4. A description of how the vector attraction reduction requirement in Part 503 is met (which may be required from the generator of the Biosolids) [503.17(a)(4)(I)(D)].
5. The certification statement required under 40 CFR [503.17(a)(4)(ii)(A)].
6. A description of how the management practices in 8.05.050 are met for each land applied Site [503.17(a)(4)(ii)(B)].
7. A description of how the Site restrictions in 8.05.070 are met for each land applied Site [503.17(a)(4)(ii)(C)].
8. A description of how the vector attraction reduction requirement is met when the vector attraction reduction requirement in Section 8.05.065.B.9 or 10 is met [503.17(a)(4)(ii)(D)].

F. The Applier of CPLR Biosolids shall develop the following information and retain the information in Subparagraphs 1 through 7 indefinitely, and the information in Subparagraph 8 through 14 for five (5) years [503.17(a)(5)].

1. The location, by fractional quarter section, section, township and range, for each Site on which Biosolids are applied [503.17(a)(5)(ii)(A)].
2. The number of hectares/acres in each Site on which Biosolids are applied [503.17(a)(5)(ii)(B)].
3. The dates Biosolids are applied to each Site [503.17(a)(5)(ii)(C)].
4. The cumulative amount of each pollutant (i.e., kilograms) applied to each Site, including the amount in 40 CFR 503.12(e)(2)(iii) [503.17(a)(5)(ii)(D)].
5. The amount of Biosolids in dry metric tons and dry tons applied to each Site [503.17(a)(5)(ii)(E)].
6. The certification statement required under 40 CFR 503.17(a)(5)(ii)(F).
7. A description of how the requirements to obtain information in 40 CFR 503.12(e)(2) are met [503.17(a)(5)(ii)(G)].
8. The certification statement required under 40 CFR [503.17(a)(5)(ii)(H)].
9. A description of how the management practices are met for each Site [503.17(a)(5)(ii)(I)].
10. The certification statement required by 40 CFR 503.17(a)(5)(ii)(J) when the Biosolids meet Class B pathogen requirements.
11. A description of how the Site restrictions are met for each Site [503.17(a)(5)(ii)(K)].
12. The certification statement required by 40 CFR 503.17(a)(5)(ii)(L) when the vector attraction reduction requirement in either 40 CFR 503.33(b)(9) or (b)(10) is met.
13. If the vector attraction reduction requirements in either 40 CFR 503.33(b)(9) or (b)(10) are met, a description of how the requirements are met [503.17(a)(5)(ii)(M)].

G. A Pre-Application Report shall be prepared for each Field, using a form provided by the Agency, and submitted to the Agency at least ten (10) working days prior to application to that Field.

H. Field changes shall be faxed or electronically transferred to the Agency by the Applier at least twenty-four (24) hours prior to the scheduled change.

I. A monthly activity report shall be prepared and submitted to the Agency within thirty (30) calendar days of the end of the reporting period summarizing the quantity in wet tons of Biosolids hauled from each source per day and total quantities in both wet and dry tons per month, the receiving Fields and their associated sizes, methods of application and Biosolids analysis reports.

J. Summary Field reports shall be prepared for each field that received Biosolids between plantings and submitted to the Agency within thirty (30) calendar days of the end of the reporting period. The field reports shall include:

- 1.Site identification, location and size.
- 2.Quantity of Biosolids applied in wet tons, dry tons and dry metric tons.
- 3.Dates of application.
- 4.Cumulative pollutant loading rates in kilograms per hectare.
- 5.Type of crop(s) to be grown and projected dates of planting and harvesting.
- 6.Estimated amount of water needed per acre to produce the crop(s).
- 7.Crop Nitrogen requirement(s).
- 8.Calculations for total available Nitrogen, including Plant Available Nitrogen (PAN) from Biosolids, usable preapplication soil Nitrate-N, and anticipated Nitrogen applied in other fertilizers in lbs/acre and kg/hectare. Unless otherwise specified by the Agency, usable preapplication soil Nitrate-N is equal to one half of the total soil Nitrate-N determined by laboratory analysis of a composite field sample to a three foot depth.
- 9.Certifications as required herein, including the most recent Pathogen Reduction Certification from the generator of the applied Biosolids.

K. An annual report shall be submitted by February 19 of each year for the period covering the previous calendar year. The report shall include for each Field, the information required in Subsection 8.05.070.J above plus:

- 1.Names and addresses of owners, Appliers and growers.
- 2.Lifetime dry tons of Biosolids applied.
- 3.Biosolids loading rate in dry tons per acre and dry metric tons per hectare.
- 4.Actual crop(s) grown, crop yield, and dates of planting and harvesting.
- 5.Amount of water applied to crop(s).

8.05.080 INSPECTION AND ENFORCEMENT

A. The Agency shall inspect all Sites at least one (1) time per week during the period when Biosolids are being applied and may inspect more frequently or at any time.

B. The Agency may charge for services not specifically described that are rendered by personnel that are necessary for the enforcement of the provisions of this ordinance. The charge will be calculated on the per-hour fee of seventy-five (\$75.00) dollars as established in Section 8.04.100. Any laboratory analysis will be charged at the Agency's actual costs as charged by a Certified Laboratory retained by Agency for any testing.

C. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

D. In addition, any violation of this chapter may be deemed by the Agency to be a public nuisance, and may be abated, or enjoined by the Agency, irrespective of any other remedy herein provided.

8.05.090 EFFECTIVE DATE

The provisions of this chapter shall expire on December 31, 2002, unless otherwise extended by the board of supervisors.

Section 4.Effective January 1, 2003 a new Chapter 8.05 shall be added to Title 8 of the Ordinance Code of Kern County to read as follows:

CHAPTER 8.05 LAND APPLICATION OF BIOSOLIDS

8.05.010 PURPOSE AND INTENT

There are numerous unanswered questions about the safety, environmental effect, and propriety of land

applying Biosolids or sewage sludge, even when applied in accordance with federal and state regulations. Biosolids may contain heavy metals, pathogenic organisms, chemical pollutants, and synthetic organic compounds, which may pose a risk to public health and the environment if improperly handled. Land application of Biosolids may pose a risk to land, air, water, to human and animal health, and may cause loss of confidence in agricultural products from Kern County as well as the potential loss of productive agricultural lands.

In order to promote the general health, safety and welfare of Kern County and its inhabitants, it is the intent of this chapter that the land application of Biosolids shall be prohibited in the unincorporated area of Kern County.

The County recognizes that Exceptional Quality Biosolids, as defined in this chapter, are considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land. Therefore, the provisions of this chapter do not apply to Exceptional Quality Biosolids unless specifically stated herein. Further, the provisions of this chapter do not apply to Compost, as defined herein, manufactured from Biosolids at composting facilities that are otherwise regulated by the County through Solid Waste and Conditional Use Permits.

8.05.020 AUTHORITY

This chapter is adopted pursuant to the police power of Kern County as set forth in Article XI, Section 7, of the California Constitution. In addition, 40 CFR Part 503 recognizes the authority of local government to impose more stringent requirements on the use or disposal of sewage sludge in order to protect public health and the environment from any adverse effect from sewage sludge.

8.05.030 DEFINITIONS

A. Agency means an authorized representative of the Environmental Health Services Department of the County.

B. Applier means is any person engaged in the Land Application of Biosolids.

C. Biosolids are treated solid, semi-solid or liquid residues generated during the treatment of sewage in a wastewater treatment works that meet 40 CFR Part 503 requirements specified in 503.32(b) for pathogen reduction, 503.33 for vector attraction reduction, and 503.13, Table 1 for pollutant concentrations. These residues include, but are not limited to, scum or solids removed in primary, secondary or advanced wastewater treatment processes and material derived from sewage sludge. Biosolids do not include ash generated during the firing of sewage sludge in a sewage incinerator or grit and screenings generated during preliminary treatment of sewage. Biosolids, as used in this chapter, excludes Biosolids products that are in a bag or container packaged for routine retail sales through regular retail outlets which are primarily used for residential landscaping.

D. Compost means the product resulting from the controlled biological decomposition of organic materials which may include Biosolids. Facilities where compost is produced are required to obtain Solid Waste Facilities and Conditional Use Permits as a condition of operation. Compost products are required to meet or exceed product quality criteria as established by the California Integrated Waste Management Board.

E. County means the County of Kern, State of California.

F. Exceptional Quality Biosolids are Class A Biosolids that meet the pollutant concentrations in 40 CFR 503.13, Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. Additionally, Class A Biosolids must meet both the fecal coliform and Salmonella sp. bacteria limits contained in Alternatives 1 through 6 of 40 CFR 503.32(a) to be Exceptional Quality. For the purposes of this chapter, Exceptional Quality Biosolids are in bulk form and shall not include Compost which meets or exceeds Exceptional Quality criteria.

G. Land apply means the spraying or spreading of Biosolids onto the land surface, the injection of Biosolids below the surface, or the incorporation of Biosolids into the soil so that it can either condition the soil or fertilize crops or vegetation grown in the soil.

H. Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, city, county or other political subdivision, or any other group or combination acting as a unit.

I. Site means the area of land covered by a permit issued under former Chapter 8.05.

8.05.040 BIOSOLIDS PROHIBITED

A. It shall be unlawful for any person to land apply Biosolids to property within the unincorporated area of the County. Any Site for which a Permit was issued prior to the January 1, 2003 shall discontinue land application of Biosolids upon the effective date of this chapter.

B. The discharge of Biosolids to surface waters or surface water drainage courses, including wetlands and water ways, is prohibited.

8.05.050 APPEAL PROCESS

A. Any person who has installed or constructed permanent improvements related to the land application of Biosolids where the useful life of the improvements would extend beyond the effective date of this chapter may request, and the Board of Supervisors may grant, additional time for the discontinuance of the land application of Biosolids commensurate with the remaining useful life of the improvements.

B. Any request shall be made by filing a written request for a hearing before the Board of Supervisors with the Clerk of the Board no later than October 1, 2002. Upon receipt of a written request for a hearing, the Clerk of the Board shall set the matter for public hearing on a date not more than sixty (60) calendar days following receipt of such written request, and shall give the applicant, interested parties and the Board of Supervisors at least thirty (30) calendar days written notice of the time, date, and place of the hearing. After the hearing, the Board of Supervisors, shall issue its written decision and findings on the appeal within thirty (30) calendar days after the close of the hearing.

8.05.060 PENALTY FOR VIOLATION

Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not more than \$500 or by imprisonment of not more than six months or both. Every violation of this chapter shall be construed as a separate offense for each day during which such violation continues and shall be punishable as provided in this section. The court or the County may also demand and require the violator to clean up at the violator's expense any illegally applied or deposited Biosolids and dispose of it in an approved, environmentally safe and clean manner.

Section 5.If any clause, provision, sentence, or paragraph of this ordinance, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not effect the other provisions of this ordinance which still remain in effect, and to its end, it is hereby declared that the provisions of this ordinance are severable.

ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF KERN, STATE OF CALIFORNIA ADDING CHAPTER 8.05 TO THE KERN COUNTY ORDINANCE CODE REGULATING THE LAND APPLICATION OF BIOSOLIDS

The following ordinance, consisting of five (5) sections, was duly and regularly passed and adopted by the Board of Supervisors of the County of Kern, State of California, at a regular meeting of the Board of Supervisors held on the _____ day of , 1999, by the following vote, to wit:

AYES:

NOES:

ABSENT:

Chairman of the Board of Supervisors of
the County of Kern, State of California

(SEAL)

ATTEST:

DENISE PENNELL
Clerk of the Board of Supervisors

By _____, Deputy Clerk

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

Section 1. This ordinance shall take effect and be in full force on and after the _____ day of _____, 1999, and shall be published once in _____, a newspaper of general circulation, published in the County of Kern, State of California, together with the names of the members of the Board of Supervisors voting for and against the same.

Book No. _____
Ord. No. _____

Section 2. Chapter 8.05 of the Kern County Code is hereby repealed, effective December 31, 1999.

Section 3. A new Chapter 8.05 is hereby added to the Kern County Ordinance Code to read as follows, effective January 1, 2000:

CHAPTER 8.05
REGULATION OF BIOSOLIDS LAND APPLICATION

8.05.010 PURPOSE AND INTENT

There are numerous unanswered questions about the safety, environmental effect, and propriety of land applying Biosolids or sewage sludge, even when applied in accordance with federal and state regulations. Biosolids may contain heavy metals, pathogenic organisms, chemical pollutants, and synthetic organic compounds, which may pose a risk to public health and the environment if improperly handled. There is a lack of adequate scientific understanding concerning the risk land applying of Biosolids may pose to land, air and water and to human and animal health. It may cause loss of confidence in agricultural products from Kern County as well as the potential loss of productive agricultural lands. There is also substantial scientific evidence demonstrating the clear potential for adverse impacts. Therefore, the continuation of this practice will unreasonably and unnecessarily jeopardize the public and the environment. Consequently, in order to promote the general health, safety and welfare of Kern County and its inhabitants, it is the intent of

this chapter that the land application of Biosolids shall be prohibited in the unincorporated area of Kern County.

The County recognizes there are existing permitted sites involved in the land application of Biosolids. Consistent with the protection of private property rights under the United States and California constitutions, this ordinance contains a three year amortization period to permit the orderly discontinuation of the land application of Biosolids by January 1, 2003.

The County also recognizes that Exceptional Quality Biosolids, as defined in this chapter, are considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land. Therefore, the provisions of this chapter do not apply to Exceptional Quality Biosolids unless specifically stated herein. Further, the provisions of this chapter do not apply to Compost, as defined herein, manufactured from Biosolids at composting facilities that are otherwise regulated by the County through Solid Waste and Conditional Use Permits.

8.05.020 DEFINITIONS

A. Agency means an authorized representative of the Environmental Health Services Department of the County. The Agency will work in concert with the Agriculture Commissioner to establish a GIS tracking system and data base for all county regulated Biosolids land application activities.

B. Agricultural Land means cropland with an irrigation system and water supply capable of producing crops for commercial agricultural purposes.

C. Agronomic Rate is the Biosolids application rate calculated to provide additional Nitrogen needed for the crop or vegetation grown on the land which is not provided by background soil Nitrogen and Nitrogen to be applied through mineral fertilizers. This application rate shall be designed to minimize the amount of Nitrate Nitrogen that passes below the rootzone of the crop or vegetation into groundwater.

D. Applier is any person engaged in the Land Application of Biosolids.

E. Biosolids are treated solid, semi-solid or liquid residues generated during the treatment of sewage in a wastewater treatment facility that meet 40 CFR Part 503 requirements specified in 503.32(b) for pathogen reduction, 503.33 for vector attraction reduction, and 503.13, Table 1 for pollutant concentrations. These residues include, but are not limited to, scum or solids removed in primary, secondary or advanced wastewater treatment processes but do not include grit and screenings generated during preliminary treatment of sewage. Biosolids as used in this chapter excludes Biosolids products that are in a bag or container packaged for routine retail sales through regular retail outlets which are primarily used for landscaping.

F. Biosolids Impact Fee means the fee per ton of Biosolids charged to Biosolids applicators for mitigating the impacts to the Kern County infrastructure shown to be caused by the transport of Biosolids. Permittees which can establish the lack of impact on County infrastructure shall be exempt from payment of the fee.

G. Certified Laboratory means a laboratory certified by the state department of health services pursuant to Article 3 (commencing with Section 100825) of Chapter 4 of Part 1 of Division 101 of the California Health and Safety Code.

H. Class A Biosolids are Biosolids that meet the pathogen reduction requirements in 40 CFR 503.32 and contain constituents in concentrations not exceeding the concentrations listed in 40 CFR 503.13, Table 1 or Table 3.

I. Class B Biosolids are Biosolids that meet the pathogen reduction requirements in 40 CFR 503.32(b).

J. Compost means the product resulting from the controlled biological decomposition of organic materials

which may include Biosolids. Facilities where compost is produced are required to obtain Solid Waste Facilities and Conditional Use Permits as a condition of operation. Compost products are required to meet or exceed product quality criteria as established by the California Integrated Waste Management Board.

K. County means the County of Kern, State of California.

L. CPLR Biosolids are Cumulative Pollutant Loading Rate Biosolids which are Class A or Class B Biosolids that have achieved a level of vector attraction reduction per 40 CFR 503.33 and that meet the ceiling concentrations in 40 CFR 503.13, Table 1, but exceed at least one (1) of the pollutant concentration limits in 40 CFR 503.13, Table 3, and, therefore, are subject to the Cumulative Pollutant Loading Rates in 40 CFR 503.13, Table 2. Cumulative Pollutant Loading Rate is the maximum amount of a pollutant that can be applied to an area of land.

M. Exceptional Quality Biosolids are Class A Biosolids that meet the pollutant concentrations in 40 CFR 503.13, Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. For the purposes of this chapter, Exceptional Quality Biosolids are in bulk form and shall not include Compost which meets or exceeds Exceptional Quality criteria.

N. Existing Permit means a permit issued by the Agency prior to the effective date of this Chapter under the authority of the County's urgency interim ordinance regulating the land application of Biosolids (Ordinance G- 6528).

O. Field means a discrete area of land within a Site. It is the smallest unit of land for which monitoring, record keeping and reporting requirements apply.

P. Land Application means the placement of Biosolids on agricultural land at a predetermined agronomic rate to support vegetative growth. For purposes of this chapter, placement includes the spraying or spreading of Biosolids onto the land surface, the injection of Biosolids below the surface, or the incorporation of Biosolids into the soil.

Q. PC Biosolids means Pollutant Concentration Biosolids which meet the pollutant concentrations in 40 CFR 503.13, Table 3 and are either Class A and have achieved one of the levels of vector attraction reduction per section 40 CFR 503.33(b)(9) or (b)(10), or are Class B and have achieved one of the levels of vector attraction reduction per 40 CFR 503.33(b)(1) through (b)(10).

R. Permit means a Land Application Permit issued by the Agency jointly to an Applier and all POTWs or other generators who supply Biosolids to the Applier. Such permit authorizes the Land Application of Biosolids in the County. Permits are not transferrable to other parties without the prior approval of the Agency as provided in Section 8.05.040.R.

S. Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, city, county or other political subdivision, or any other group or combination acting as a unit.

T. POTW means publicly or privately owned treatment works that process wastewater and generate Biosolids.

U. Sensitive Receptors are schools, hospitals, convalescent homes, food establishments, parks and recreation areas, and single and multiple family dwellings.

V. Site means the area of land covered by a single Permit. This land may be a single parcel or contiguous parcels of land with a single Applier. A Site can be comprised of one or more fields.

W. Staging means the placement of Biosolids on a Site for up to forty-eight (48) hours to facilitate the transfer of Biosolids between the transportation and application vehicles.

X. Storage means the placement of Biosolids on a Site for more than forty-eight (48) hours.

Y. Vehicle means trailers in excess of 8,000 pounds gross weight used for the purpose of transporting Biosolids to a permitted Site.

8.05.030 GENERAL REQUIREMENTS

A. Prior to commencing any Land Application activities under this chapter, the Applier shall obtain a Permit and pay all applicable fees. Only Sites with an Existing Permit shall be eligible for issuance of a Permit under this chapter.

B. Before Biosolids are land applied, the Applier shall contact the Agency and Regional Water Quality Control Board to determine whether CPLR Biosolids have been applied to the Field since July 20, 1993 [503.12(e)(2)].

1.If CPLR Biosolids have not been applied to the Field since July 20, 1993, the cumulative amount for each pollutant may be applied to the Field in accordance with 40 CFR 503.13, Table 2.

2.If CPLR Biosolids have been applied to the Field since July 20, 1993, and the cumulative amount of each pollutant applied to the Field since that date is known, the cumulative amount of each pollutant applied to the Field shall be used to determine the additional amount of each pollutant that can be applied to the Field in accordance with 40 CFR 503.13, Table 2.

3.If CPLR Biosolids have been applied to the Field since July 20, 1993, and the cumulative amount of each pollutant applied to the Field since that date is not known, no further Biosolids may be applied to the Field.

C. Soils on all Fields will be sampled and analyzed prior to the application of Biosolids as set forth below. Where land application of Biosolids has occurred prior to the effective date of this chapter, the applicant will submit a current analysis reflecting soil conditions at the time of permit application. All costs associated with sampling and analysis will be paid by the applicant. All results must be included in a report provided to the Agency as part of the submitted application.

1. Soils will be analyzed for the purpose of monitoring environmental considerations and agronomic/fertility parameters.

a. Environmental analyses for the total quantity of metals listed in 40 CFR 503.13, Table 3 will be conducted every 3 years or after every 40 dry tons/acre of Biosolids has been land applied, whichever occurs first. Further, Biosolids land application shall be prohibited on Fields with soils exceeding any of the Table 3 limits. Analyses shall also be made for total dioxins and PCBs. All analyses shall be conducted by a Certified Laboratory.

b. The following agricultural parameters shall be tested for on an annual basis: saturation extract EC (electro conductivity), pH, Calcium, Magnesium, Sodium, Boron and Molybdenum; Olsen's extract for Phosphorous, Ammonium Acetate for Potassium, Cation Exchange Capacity, Total Nitrate-Nitrogen, Sulfate-Sulfur and DPTA Zinc, Cooper, Iron and Manganese. These analyses shall be conducted by an agricultural laboratory that is an active participant in the Western States Lab Quality Assurance program or a Certified lab. These analyses will be used to validate the agronomic necessity and viability of the proposed land application of Biosolids.

2. The minimum number of soil samples and sampling depth is as follows:

a. A minimum of one composite sample is required for every 160 contiguous acre site comprised of similar soil types as defined by soil surveys or consultation with the Natural Resources Conservation Service. A minimum of one composite sample for each 40 acres will be required for Sites with highly heterogeneous soil types.

b. Each sample must be a composite of soil cores taken from a minimum of six randomly selected locations

representing the average soil conditions in the field. The sampling depth shall be consistent with the depth of incorporation of the Biosolids. Samples for Nitrate-Nitrogen and soluble Molybdenum must be taken to a depth of three (3) feet. Composite tissue samples of forage grown after land application of Biosolids shall be taken at the time the forage is harvested and analyzed for Molybdenum, Copper, and Sulfur. Copies of this analysis shall be provided to the Agency.

D. The wastewater treatment plant generating the Biosolids must have a current waste discharge permit from a Regional Water Quality Control Board or the equivalent permit meeting Clean Water Act requirements applicable in the jurisdiction of the wastewater treatment plant.

E. In order to confirm the quality of the Biosolids being land applied, the following required tests shall be performed by a Certified Laboratory. These tests shall be in addition to that required of the POTW or the Permittee in accordance with Part 503.

1. Random samples as requested by the Agency for Biosolids loads, to be sampled at the staging area prior to land application by the Applier, to include constituents deemed necessary by the Agency to confirm the Biosolids compliance with the requirements of this chapter.
2. Representative samples from each wastewater treatment plant that generates Biosolids to be land applied shall be composited and analyzed each month for constituents to assure compliance with the requirements of this chapter.

F. The application of Biosolids shall be confined to Sites that are permitted and approved by the Agency in accordance with the provisions of this chapter.

G. All Biosolids transported for Land Application within the County shall be in vehicles which meet all applicable California codes and regulations for commercial vehicles and the following requirements:

1. Each vehicle and Biosolids application unit shall have on each side, the identity of the Applier, including the name, address, city and telephone number. Required markings shall contrast sharply with the background and shall be readily legible during daylight from a distance of 50 feet.
2. Vehicles shall be designed and maintained in such a manner as to prevent leakage of liquid or spilling, blowing or loss of material during transportation.
3. Vehicles shall be maintained in a neat and clean condition and in sound mechanical condition. All loads hauled in open-topped vehicles shall be fully tarped. Vehicle exteriors shall be free of Biosolids before entering public roads.
4. All vehicles must meet California Department of Transportation requirements.
5. The vehicle's driver shall be equipped in a manner whereby effective communication with the Applier's office can be maintained.

H. Biosolids Impact Fee.

1. There is levied by the County of Kern a fee of \$3.37 per ton for each ton of Biosolids land applied within the county. The amount of fee shall be calculated based on the monthly activity report as required by section 8.05.070(I) and is to be remitted to the Agency along with the filing of the monthly activity report. Permittees are subject to enforcement action, including revocation of the Permit, for non-payment. Where the Permittee can demonstrate the land application of Biosolids does not have an impact on County infrastructure or roads, the Agency may waive this fee.
2. Permittees, either directly or through the wastewater treatment plant generating the Biosolids to be applied on the Permittee's property, which separately contract with the County or are determined to provide a reciprocal benefit, as determined by the Board of Supervisors, shall be exempt from this fee.
3. Funds generated by this impact fee and other permit fees may be available to fund the following uses: Expenses associated with the inspection of properties within the County which have permits for the land application of Biosolids; development and operation of a GIS tracking system for all Biosolids land applied within the County so that there is an accurate data base containing this information; technical studies and pilot projects which provide additional data on Biosolids land application; correction of any infrastructure deficiencies directly associated with the hauling of Biosolids; and, the

cost of public outreach and education programs to ensure that the standards expressed within this ordinance and contained in the federal guidance for the beneficial reuse of Biosolids are adhered to. The budget for the expenditure of the Biosolids Mitigation Fund on mitigating the impact of Biosolids land application within the County, as set forth above, shall be prepared by the Director of the Resource Management Agency for approval by the Board of Supervisors annually.

I. The Agency shall be allowed, whether announced or not, to enter and inspect all Sites where Biosolids are being or have been land applied. The Agency shall, during normal business hours, have access to and may copy any records that must be kept under the provisions of this chapter.

8.05.040 PERMIT APPLICATION

A. It shall be unlawful for any person to apply Biosolids to land within the unincorporated area of the County without obtaining a Permit from the Agency and being in compliance with the terms and conditions as stated herein.

B. The application for a Permit shall be filed with the Agency on an application form furnished by the Agency, accompanied by an eight thousand dollar (\$8,000) fee. The application shall include the following information:

1. The name and address of the applicant, Applier, the property owner or leaseholder, and the farm manager; and
2. The address, legal description or other sufficient identifying description of the property;
3. A map of the property having a minimum scale of 1:1,000 indicating the following:
 - a. Means of access;
 - b. The location of the proposed land application Fields within each Site;
 - c. All potable water wells, drinking water supplies, and buildings, including the identification of any buildings which are owned by the applicant, within 1,000 feet of the Site;
 - d. The location of property boundaries identifying the names and addresses of all contiguous landowners;
 - e. All surface water bodies and their water quality classification within 1,000 feet of the Site, including 100-year flood elevations;
 - f. The location of any publicly operated groundwater recharge facilities within 1 mile of the property;
 - g. All drainage swales within 500 feet of the Site;
 - h. The location of all test pits, soil borings or soil sample points;
 - I. The location of any wetlands, including their classification, and flood plains within 1,000 feet of the Site; and
 - j. The direction of the prevailing wind.
4. The depth to bedrock and seasonal high groundwater and the source of this information.
5. A description of surface drainage patterns at the Site.
6. The name and address of the source(s) of the Biosolids to be applied, the level of pathogen treatment for each source, a description of vector attraction reduction methods used and the level of pollutant concentrations for pollutants in Table 1 of 40 CFR 503.13; and

7. A description of the irrigation system, water supply to be used on the property, and the amount of water, expressed in acre feet per acre, necessary to produce the crop(s) to be grown; and
8. A listing of the expected crops to be grown on each Site;
9. Copies of all original laboratory tests for any tests required to be performed prior to the initial application of biosolids as required by Section 8.05.030.C.
10. A description of all surface water protection measures.
11. Such additional information as may be required by the Agency to facilitate any required investigation. Where information or documentation has been previously submitted for an Existing Permit or renewal of a Permit, where the information is current, the agency may waive the requirement for submittal of information required by this Section.

C. The person filing the application shall sign a statement under penalty of perjury that the facts stated in the application are true and correct and that all information required has been set forth in the application. The owner or authorized representative of the property shall also sign the application acknowledging the intended use to be made of the property. The person filing the application shall also provide a signed statement from each Biosolids POTW proposing to supply Biosolids to the Applier for land application in Kern County acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter.

D. Applicants shall be notified of incomplete or inaccurate applications within twenty (20) working days after the date of the filing of the application. The applicant shall make the necessary corrections and additions and resubmit the application within thirty (30) calendar days of notification. The Agency shall evaluate the information provided in the application to determine whether or not the land application proposal will be in compliance with the applicable requirements of this chapter.

E. The Agency shall have fifteen (15) working days after the date of filing of a complete application to approve or deny all complete and accurate applications. If an application is denied, the applicant may amend the application and resubmit the amended application within thirty (30) calendar days of the date on which the denial was mailed to the applicant. Such submittal of an amended application is not subject to an additional fee.

F. Written notice of the denial of a Permit shall be delivered in person or by U.S. Mail, postage prepaid, to the applicant at the address on file with the Agency.

G. The Agency may deny an application for one (1) or more of the following reasons:

1. Prior significant non-compliance with local, state or federal regulations or permits related to the land application of biosolids.
2. Inadequate, incomplete, or inaccurate application information.
3. The land application proposal would not be in conformance with the applicable requirements of this chapter.

H. The Agency shall issue the Permit within twenty-four (24) hours of approving the application.

I. Permits shall be reviewed annually from the date of issuance. or reissuance. Permit review and reissuance are subject to the following:

1. A Permit does not expire at the end of one (1) year absent an express permit term or condition limiting the period of the Permit.
2. The Agency shall notify the Applier sixty (60) calendar days before the Permit is due for review.
3. No fewer than thirty-five (35) calendar days before the Permit is due for review, the Applier shall submit a certification that the information contained in the Permit is current, or shall file a new

application pursuant to Section 8.05.040.B.

4.If the Applier files a certification as specified in Subsection I, the Agency shall reissue the Permit upon payment of the annual fee.

J. A Permit may be revoked by the Agency when the Applier has violated any provision(s) of this chapter or any federal/state laws or regulations related to the land application of biosolids, or violated a provision(s) of any permit issued by the Regional Water Quality Control Board, or other state agency with jurisdiction, related to the land application of biosolids. If the Agency intends to revoke the Permit, a written notice to this effect shall be delivered in person or by certified mail to the mailing address of the Permit applicant. The written notice shall state the grounds for the proposed revocation. The revocation shall become effective ten (10) days after service of the notice unless the Permit holder files an appeal with the Board of Supervisors within that time period.

K. The applicant may appeal a denial or revocation of a Permit. Any appeal or revocation shall be made to the Board of Supervisors by filing a written request for a hearing before the Board of Supervisors with the Clerk of the Board not more than ten (10) calendar days after notice of the proposed denial or revocation has been delivered. Upon receipt of a written request for a hearing, the Clerk of the Board shall set the matter for public hearing on a date not more than sixty (60) calendar days following receipt of such written request, and shall give the Permit applicant and the Board of Supervisors at least thirty (30) calendar days written notice of the time, date, and place of the hearing. After the hearing, the Board of Supervisors shall issue its written decision and findings on the appeal within thirty (30) calendar days after the close of the hearing.

L. The Agency may temporarily suspend any Permit issued under this chapter, prior to any hearing when, in the opinion of the Agency director, such action is necessary to protect the residents of the County from immediate threats to health and safety. The Agency shall notify the Permit holder of the temporary suspension and the effective date thereof and at the same time shall set the matter for hearing as soon as possible before the Board of Supervisors as set forth in Subsection K herein. The temporary suspension shall remain in effect until the Board of Supervisors has taken final action on the merits.

M. Fees to review and process Permit applications, appeal an action of the Agency, as specified herein, inspect Sites, engage in enforcement activities and compensate for infrastructure impacts shall be established by the Board of Supervisors.

N. A permit and payment of permit fees, as set forth in this section, shall not be required by or from persons who apply to land or who produce, store, transport, distribute or sell Exceptional Quality Biosolids within the County.

O. Persons who produce Exceptional Quality Biosolids in the County in bulk form shall submit written report on a form provided by the Agency of their activity to the County on a monthly basis. Said report shall include a summary of the quantity in wet tons of Biosolids hauled from each source per day and total quantities in both wet and dry tons per month. In said report, the person shall declare, under penalty of perjury, that the Biosolids such person is producing are exempt from the permitting and other requirements of this chapter, except as stated, because they are Exceptional Quality Biosolids.

P. Where an Existing Permit has been issued, the Applier shall submit to the Agency a signed statement from each Biosolids POTW supplying Biosolids to the Applier for land application in Kern County acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter. Upon receipt of such signed statements, the Agency shall issue a new Permit to the Applier.

Q. Whenever an applier proposes to accept Biosolids from any POTW not included in the original permit application, the POTW shall provide a signed statement acknowledging that they are aware of and concur in all the requirements associated with the permit and the requirements of this chapter prior to the Applier accepting Biosolids from that POTW.

R. No Permit may be transferred without the prior approval of the Agency. The Agency shall review a request for transfer of a Permit using such criteria as it deems necessary to assure that the proposed transferee would qualify for the approval, in the first instance, for issuance of a Permit and is capable of complying with the conditions of the Permit and the requirements of this Chapter. The Agency shall not unreasonably withhold its consent to the transfer of any Permit. Denial of any request for the transfer of a Permit may be appealed to the Board of supervisors following the procedures provided for appeal of the denial or revocation of a Permit under Subsection K herein.

8.05.050 MANAGEMENT PRACTICES

A. Transportation, Storage and Land Application of Biosolids shall not degrade the groundwater or surface water.

B. Discharge of Biosolids to surface waters or surface water drainage courses is prohibited and all Biosolids shall be confined to within the boundaries of the Site.

C. All irrigation tailwater on Sites utilized for Biosolids application shall be maintained on the permitted Site and shall not be allowed to flow on to adjacent properties, either by means of surface or subsurface flows.

D. Biosolids shall not be applied to soils where depth to groundwater is less than twenty (20) feet to the soil surface, unless the total dissolved solids of the shallow groundwater exceeds 3,000 mg/l (5,000 μ mhos/cm EC) and this groundwater cannot be reasonably expected to supply domestic water. The depth to groundwater shall be determined by the Agency. Biosolids shall not be applied to soils within one hundred (100) feet of any water banking or recharge facilities operated by local or state water authorities, as determined by the Agency.

E. Biosolids shall not be stored on the Site unless approved by the Agency due to adverse climatic or other emergency conditions which prevent application within forty-eight (48) hours. Sites where Biosolids are stored for more than forty-eight (48) hours shall be designed and maintained to contain all storm water falling from a ten (10) year, twenty-four (24) hour storm and to prevent washout or inundation from a one hundred (100) year storm or flood.

F. Transportation, fugitive dust, surface water runoff, storage and Application of Biosolids shall not cause a nuisance, odors, flies or other vectors.

G. Except as otherwise provided, Biosolids shall be applied within forty-eight (48) hours of delivery to the Site and sufficiently incorporated into the soil to a depth which prevents the development of nuisance conditions within twenty-four (24) hours of the application. Upon a showing of good cause, the Agency may grant additional time for incorporation if requested by the Applier when the Agency determines that no public health, environmental or nuisance conditions will result from the extended time.

H. Bulk Biosolids shall be applied at an application rate that is equal to or less than the Agronomic Rate at all Sites, including Staging areas [503.14(d)]. The County may approve other application rates in conjunction with specific research projects.

I. Agricultural lands receiving Biosolids shall be planted with the appropriate crop for the Agronomic Rate of Nitrogen applied, and be harvested, grazed or disced. If the crop is disced, additional Biosolids may not be applied until a subsequent crop is planted, harvested or grazed.

J. Agricultural lands shall be irrigated in amounts consistent with those listed in the permit application required by Section 8.050.040.

K. Biosolids with a moisture content less than fifty percent (50%) shall not be applied and incorporated when wind gusts are in excess of ten (10) miles per hour.

L. Fields shall be clearly marked with stakes, flags or other prominent markers to indicate application sites

and applicable setback distances.

M. Application of Biosolids shall not cause or result in the covering, disturbing or changing any part of a County road or highway or the placing of any obstruction or piling any material on the surface of any County road or highway.

N. Land application of Biosolids within any designated floodway or flowage easements designated by the Reclamation Board of the State of California or floodways shown on maps provided by the Federal Emergency Management Agency (FEMA) is prohibited. Land application of Biosolids is prohibited within any 100 year flood plain as designated by FEMA, unless adequate flood protection measures are in place to protect adjacent properties.

O. No Biosolids shall be applied which contain PCBs in excess of 50 parts per million or dioxins in excess of 10 parts per billion.

P. Before the land application of Biosolids each year, as part of the annual report, a management plan shall be submitted to the Agency. The plan must include: crops to be grown, fields to be used, schedules and methods of application and harvesting, and loading rates. Loading rates must be determined based on the quantity of and heavy metal, nutrient, and persistent organic concentrations of the Biosolids to be applied and the Site characteristics, previous applications of Biosolids, and Nitrogen uptake requirements of the plants to be grown.

8.05.060 SITE RESTRICTIONS

A. Staging and Storage areas and Biosolids application Sites shall have signs placed at each corner of the field and every one quarter mile (1320 feet). If corners are less than one quarter mile (1320 feet) apart, then one (1) sign shall be placed equidistant between the corner signs. The signs shall contain the following wording "Warning: No Trespassing - Biosolids Applied to this Property within last 30 days" and shall meet the specifications as determined by the Agency. Such signs shall be maintained for a period of at least thirty (30) calendar days after the last application of Biosolids to the Field.

B. All Biosolids staging and storage areas and applications shall be at least:

1. Fifty (50) feet from property lines.
2. Five hundred (500) feet from domestic or public water supply wells.
3. Fifty (50) feet from non-domestic water supply wells.
4. Five hundred (500) feet from occupied residential buildings. However, in the case of the owner's residence on the site, the Agency may waive this set back requirement if requested by the owner.
5. Ten (10) feet from agricultural buildings.
6. Five hundred (500) feet from Sensitive Receptors.
7. Fifty (50) feet from public roads.
8. One hundred (100) feet from surface waters (streams, ponds, lakes and marshes, or surface percolation or settling ponds intended for water banking use).

Sites where Biosolids are stored shall be located, designed and maintained to restrict public access.

C. The following site restrictions shall be followed after the application of Class B Biosolids:

1. Food crops with harvested parts that touch the Biosolids/soil mixture and are totally above the land surface shall not be harvested for fourteen (14) months after application of Biosolids.
2. Food crops with harvested parts below the surface of the land shall not be harvested for thirty-eight (38) months after application of Biosolids.
3. Unprocessed food crops with harvested parts that are totally above the land surface and do not touch the Biosolids/soil mixture shall not be harvested for fourteen (14) months after application of Biosolids.
4. Feed crops, fiber crops, oil crops, and processed food crops with harvested parts that are totally above

the land surface and do not touch the Biosolids/soil mixture shall not be harvested for thirty (30) days after application of Biosolids.

5. Animals shall not be allowed to graze on the land for ninety (90) days after application of the Biosolids.

6. Turf grown on land where Biosolids are applied shall not be harvested for one (1) year after application of Biosolids when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Agency.

7. Public access to land with a high potential for public exposure shall be restricted for one (1) year after application of Biosolids and for land with a low potential for public exposure access shall be restricted for thirty (30) days after the last application of Biosolids.

8.05.070 MONITORING, RECORD KEEPING AND REPORTING

A. Biosolids shall be tested for the pollutants listed in 40 CFR 503.13, total solids, organic-N, ammonia-N, and nitrate-N, PCBs and dioxins at the following minimum frequencies:

Amount of Biosolids¹

dry metric tons per 365 day period (dry tons/yr) Frequency

> 0 but < 290 (<320) Once per year.

> 290 but < 1,500 (320-1,654) Once per quarter (4 times/year)

> 1,500 but < 15,000 (1,654-16,538) Once per 60 days (6 times/year)

>15,000 (>16,538) Once per month (12 times/year)

¹The amount of bulk Biosolids generated by the treatment works that is managed through Land Application.

B. Test results shall be expressed in milligrams per kilogram Biosolids on a one hundred percent (100%) dry weight basis.

C. Analyses shall be conducted using methods as required by 40 CFR Part 503.8.

D. For PC Biosolids, the Applier shall retain the following information for five (5) years after the last application of Biosolids, in a location approved by the Agency:

1. The concentration of each pollutant listed in 40 CFR 503.13, Table 3 for all land applied Biosolids [503.17(a)(4)(I)(A)].

2. The certification statement (which may be required from the generator of the Biosolids) set forth in 40 CFR 503.17(a)(4)(I)(B).

3. A description of how the pathogen requirements in 40 CFR 503.17(a)(4)(I)(C) are met (which may be required from the generator of the Biosolids).

4. A description of how the vector attraction reduction requirement in Part 503 is met (which may be required from the generator of the Biosolids) [503.17(a)(4)(I)(D)].

5. The certification statement required under 40 CFR [503.17(a)(4)(ii)(A)].

6. A description of how the management practices in 8.05.050 are met for each land applied Site [503.17(a)(4)(ii)(B)].

7. A description of how the Site restrictions in 8.05.070 are met for each land applied Site [503.17(a)(4)(ii)(C)].

8. A description of how the vector attraction reduction requirement is met when the vector attraction reduction requirement in Section 8.05.065.B.9 or 10 is met [503.17(a)(4)(ii)(D)].

F. The Applier of CPLR Biosolids shall develop the following information and retain the information in

Subparagraphs 1 through 7 indefinitely, and the information in Subparagraph 8 through 14 for five (5) years [503.17(a)(5)].

1. The location, by fractional quarter section, section, township and range, for each Site on which Biosolids are applied [503.17(a)(5)(ii)(A)].
2. The number of hectares/acres in each Site on which Biosolids are applied [503.17(a)(5)(ii)(B)].
3. The dates Biosolids are applied to each Site [503.17(a)(5)(ii)(C)].
4. The cumulative amount of each pollutant (i.e., kilograms) applied to each Site, including the amount in 40 CFR 503.12(e)(2)(iii) [503.17(a)(5)(ii)(D)].
5. The amount of Biosolids in dry metric tons and dry tons applied to each Site [503.17(a)(5)(ii)(E)].
6. The certification statement required under 40 CFR 503.17(a)(5)(ii)(F).
7. A description of how the requirements to obtain information in 40 CFR 503.12(e)(2) are met [503.17(a)(5)(ii)(G)].
8. The certification statement required under 40 CFR [503.17(a)(5)(ii)(H)].
9. A description of how the management practices are met for each Site [503.17(a)(5)(ii)(I)].
10. The certification statement required by 40 CFR 503.17(a)(5)(ii)(J) when the Biosolids meet Class B pathogen requirements.
11. A description of how the Site restrictions are met for each Site [503.17(a)(5)(ii)(K)].
12. The certification statement required by 40 CFR 503.17(a)(5)(ii)(L) when the vector attraction reduction requirement in either 40 CFR 503.33(b)(9) or (b)(10) is met.
13. If the vector attraction reduction requirements in either 40 CFR 503.33(b)(9) or (b)(10) are met, a description of how the requirements are met [503.17(a)(5)(ii)(M)].

G. A Pre-Application Report shall be prepared for each Field, using a form provided by the Agency, and submitted to the Agency at least ten (10) working days prior to application to that Field.

H. Field changes shall be faxed or electronically transferred to the Agency by the Applier at least twenty-four (24) hours prior to the scheduled change.

I. A monthly activity report shall be prepared and submitted to the Agency within thirty (30) calendar days of the end of the reporting period summarizing the quantity in wet tons of Biosolids hauled from each source per day and total quantities in both wet and dry tons per month, the receiving Fields and their associated sizes, methods of application and Biosolids analysis reports.

J. Summary Field reports shall be prepared for each field that received Biosolids between plantings and submitted to the Agency within thirty (30) calendar days of the end of the reporting period. The field reports shall include:

1. Site identification, location and size.
2. Quantity of Biosolids applied in wet tons, dry tons and dry metric tons.
3. Dates of application.
4. Cumulative pollutant loading rates in kilograms per hectare.
5. Type of crop(s) to be grown and projected dates of planting and harvesting.
6. Estimated amount of water needed per acre to produce the crop(s).
7. Crop Nitrogen requirement(s).
8. Calculations for total available Nitrogen, including Plant Available Nitrogen (PAN) from Biosolids, usable preapplication soil Nitrate-N, and anticipated Nitrogen applied in other fertilizers in lbs/acre and kg/hectare. Unless otherwise specified by the Agency, usable preapplication soil Nitrate-N is equal to one half of the total soil Nitrate-N determined by laboratory analysis of a composite field sample to a three foot depth.
9. Certifications as required herein, including the most recent Pathogen Reduction Certification from the generator of the applied Biosolids.

K. An annual report shall be submitted by February 19 of each year for the period covering the previous calendar year. The report shall include for each Field, the information required in Subsection 8.05.070.J above plus:

- 1.Names and addresses of owners, Appliers and growers.
- 2.Lifetime dry tons of Biosolids applied.
- 3.Biosolids loading rate in dry tons per acre and dry metric tons per hectare.
- 4.Actual crop(s) grown, crop yield, and dates of planting and harvesting.
- 5.Amount of water applied to crop(s).

8.05.080 INSPECTION AND ENFORCEMENT

A. The Agency shall inspect all Sites at least one (1) time per week during the period when Biosolids are being applied and may inspect more frequently or at any time.

B. The Agency may charge for services not specifically described that are rendered by personnel that are necessary for the enforcement of the provisions of this ordinance. The charge will be calculated on the per-hour fee of seventy-five (\$75.00) dollars as established in Section 8.04.100. Any laboratory analysis will be charged at the Agency's actual costs as charged by a Certified Laboratory retained by Agency for any testing.

C. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor.

D. In addition, any violation of this chapter may be deemed by the Agency to be a public nuisance, and may be abated, or enjoined by the Agency, irrespective of any other remedy herein provided.

8.05.090 EFFECTIVE DATE

The provisions of this chapter shall expire on December 31, 2002, unless otherwise extended by the board of supervisors.

Section 4.Effective January 1, 2003 a new Chapter 8.05 shall be added to Title 8 of the Ordinance Code of Kern County to read as follows:

CHAPTER 8.05 LAND APPLICATION OF BIOSOLIDS

8.05.010 PURPOSE AND INTENT

There are numerous unanswered questions about the safety, environmental effect, and propriety of land applying Biosolids or sewage sludge, even when applied in accordance with federal and state regulations. Biosolids may contain heavy metals, pathogenic organisms, chemical pollutants, and synthetic organic compounds, which may pose a risk to public health and the environment if improperly handled. Land application of Biosolids may pose a risk to land, air, water, to human and animal health, and may cause loss of confidence in agricultural products from Kern County as well as the potential loss of productive agricultural lands.

In order to promote the general health, safety and welfare of Kern County and its inhabitants, it is the intent of this chapter that the land application of Biosolids shall be prohibited in the unincorporated area of Kern County.

The County recognizes that Exceptional Quality Biosolids, as defined in this chapter, are considered by the U.S. Environmental Protection Agency to be a product, whether distributed in bulk form, bags or other containers, that can be applied as freely as any other fertilizer or soil amendment to any type of land. Therefore, the provisions of this chapter do not apply to Exceptional Quality Biosolids unless specifically stated herein. Further, the provisions of this chapter do not apply to Compost, as defined herein, manufactured from Biosolids at composting facilities that are otherwise regulated by the County through Solid Waste and Conditional Use Permits.

8.05.020 AUTHORITY

This chapter is adopted pursuant to the police power of Kern County as set forth in Article XI, Section 7, of the California Constitution. In addition, 40 CFR Part 503 recognizes the authority of local government to impose more stringent requirements on the use or disposal of sewage sludge in order to protect public health and the environment from any adverse effect from sewage sludge.

8.05.030 DEFINITIONS

A. Agency means an authorized representative of the Environmental Health Services Department of the County.

B. Applier means is any person engaged in the Land Application of Biosolids.

C. Biosolids are treated solid, semi-solid or liquid residues generated during the treatment of sewage in a wastewater treatment works that meet 40 CFR Part 503 requirements specified in 503.32(b) for pathogen reduction, 503.33 for vector attraction reduction, and 503.13, Table 1 for pollutant concentrations. These residues include, but are not limited to, scum or solids removed in primary, secondary or advanced wastewater treatment processes and material derived from sewage sludge. Biosolids do not include ash generated during the firing of sewage sludge in a sewage incinerator or grit and screenings generated during preliminary treatment of sewage. Biosolids, as used in this chapter, excludes Biosolid products that are in a bag or container packaged for routine retail sales through regular retail outlets which are primarily used for residential landscaping.

D. Compost means the product resulting from the controlled biological decomposition of organic materials which may include Biosolids. Facilities where compost is produced are required to obtain Solid Waste Facilities and Conditional Use Permits as a condition of operation. Compost products are required to meet or exceed product quality criteria as established by the California Integrated Waste Management Board.

E. County means the County of Kern, State of California.

F. Exceptional Quality Biosolids are Class A Biosolids that meet the pollutant concentrations in 40 CFR 503.13, Table 3 and have achieved a level of vector attraction reduction required by 40 CFR 503.33. For the purposes of this chapter, Exceptional Quality Biosolids are in bulk form and shall not include Compost which meets or exceeds Exceptional Quality criteria.

G. Land apply means the spraying or spreading of Biosolids onto the land surface, the injection of Biosolids below the surface, or the incorporation of Biosolids into the soil so that it can either condition the soil or fertilize crops or vegetation grown in the soil.

H. Person means any individual, firm, partnership, joint venture, association, corporation, estate, trust, receiver, syndicate, city, county or other political subdivision, or any other group or combination acting as a unit.

I. Site means the area of land covered by a permit issued under former Chapter 8.05.

8.05.040 BIOSOLIDS PROHIBITED

A. It shall be unlawful for any person to land apply Biosolids to property within the unincorporated area of the County. Any Site for which a Permit was issued prior to the January 1, 2003 shall discontinue land application of Biosolids upon the effective date of this chapter.

B. The discharge of Biosolids to surface waters or surface water drainage courses, including wetlands and water ways, is prohibited.

8.05.050 APPEAL PROCESS

A. Any person who has installed or constructed permanent improvements related to the land application of Biosolids where the useful life of the improvements would extend beyond the effective date of this chapter or who otherwise contends there are special circumstance which render the discontinuance of land application of Biosolids a hardship, may request, and the Agency may grant, additional time for the discontinuance of the land application of Biosolids commensurate with the remaining useful life of the improvements or other circumstances creating the hardship.

B. Any denial of such a request may be appealed to the Board of Supervisors. Any appeal shall be made by filing a written request for a hearing before the Board of Supervisors with the Clerk of the Board not more than ten (10) calendar days after notice of the denial has been delivered. Upon receipt of a written request for a hearing, the Clerk of the Board shall set the matter for public hearing on a date not more than sixty (60) calendar days following receipt of such written request, and shall give the applicant and the Board of Supervisors at least thirty (30) calendar days written notice of the time, date, and place of the hearing. After the hearing, the Board of Supervisors, shall issue its written decision and findings on the appeal within thirty (30) calendar days after the close of the hearing.

8.05.060 PENALTY FOR VIOLATION

Any person violating any provision of this chapter is guilty of a misdemeanor and upon conviction thereof is punishable by a fine of not more than \$500 or by imprisonment of not more than six months or both. Every violation of this chapter shall be construed as a separate offense for each day during which such violation continues and shall be punishable as provided in this section. The court or the County may also demand and require the violator to clean up at the violator's expense any illegally applied or deposited Biosolids and dispose of it in an approved, environmentally safe and clean manner.

Section 5.If any clause, provision, sentence, or paragraph of this ordinance, or the application thereof, is deemed to be invalid as to any person, entity, establishment, or circumstance, such invalidity shall not effect the other provisions of this ordinance which still remain in effect, and to its end, it is hereby declared that the provisions of this ordinance are severable.