

NEWS, NOTES & QUOTES



National Newsletter of the Mulch & Soil Council

OCTOBER 2021

50th Annual Meeting Report

The 50th MSC Annual Meeting held September 21-23 at the Peabody Hotel in Memphis was a resounding success. In spite of the Covid-19 pandemic, Council members from across the country gathered in person to set an all-time attendance record of 175 participants. National Program Chair **Kimberly Rygielski** (Scotts Miracle-Gro) was recognized for assembling an outstanding educational program drawing widespread support from producers and vendors, alike.



Additionally, this year's program drew record participation from event sponsors eager to support the industry and the Council's producer members after a very challenging year of ongoing Covid-19 regulations and market fluctuations. Sponsor support even allowed the program to add new functions and events giving participants more opportunities to network during a new, pre-program "Meet-the-Board Reception" on Tuesday evening.

Tuesday, Sept 21:

Our meeting activities began Tuesday afternoon with MSC committee meetings. As is our custom, all committee meetings were open to any member who wished to participate as a non-voting observer; so, in addition to committee members, there were over a dozen other member participants.

Standards Committee: The Standards Committee had a brief agenda having completed its 5-year review of the Uniform Voluntary Product Guidelines last year. Success in introducing the definition of "coir" into the Official Publication of the AAPFCO was discussed. Also reviewed was the status of the Council's policy statement on jumping worms published in the August NNQ and posted online under Consumer FAQs on the MSC website. It was also decided to monitor potential regulatory activities of the Minnesota DNR regarding jumping worms and respond as necessary.

Certification Committee: Staff reported that there are 300 certified products compared to 285 at the same point last year. Field teams traveled over 6,000 miles to collect product audit samples from 5 regions including the Southeast, South, West, Northeast and Central states. After 20 years' service, the Innov-X, X-Ray Fluorescence Spectrometer used to test for heavy metals concentrations was replaced with a state-of-the-art SciAps Model 505 XRF device with faster test cycles and greater accuracy. The committee also approved a special advisory notice on product labels to be distributed to the membership following the annual meeting.

NEW: Meet the Board Reception: Because many members travel to the meeting the day before the "official" Wednesday opening, it was suggested that the Council might add a new reception/networking event on Tuesday evening as an added value for members.

50th Annual Meeting Report

This year was the inaugural offering of the special “Meet-the-Board Reception” we hoped to have 20-30 people attend. This new event was *sponsored by nVenia* and over 100 people participated for an outstanding kick-off event for our meeting. Thanks to everyone who participated.

Wednesday, Sept 22:

Wednesday morning is our traditional meeting of the MSC Board of Directors. Again, any member interested in participating as a non-voting observer is invited to attend and more than a dozen members were present for the meeting. Having just met in July, the Board meeting agenda was fairly light with review and approvals of staff and committee reports. It was noted that the 118-page industry compensation survey report availability was reported in the August newsletter as was the jumping worm policy statement. A new survey on 2020-2021 sales growth will be sent to members following the meeting in response to reports of an unexpected decline on sales in the last half of the 2nd quarter.

After reviewing the Treasurer’s Report on year-to-date finances, the Board approved the engagement of the independent CPA firm of Carr, Riggs & Ingram to audit the Council’s 2021 finances. The Board moved on to reviewing reports from the Certification, Standards, Honors, Nominations / Elections, Transportation, Industry Statistics & L&R Committees followed by the Executive Director’s updates on legislative and regulatory issues for WOTUS, Compost Act (HR 4443 & S.2388) and MnDNR on jumping worms. It was also reported that the MSRF project on Spontaneous Combustion of Mulch & Soils in Landscape & Garden Applications is renewing efforts by SwRI to have the study published in a fire safety industry journal. The Proposition 65 Exposure Study was also still active and recent additions to the Proposition 65 chemicals list are being reviewed for their possible impact on the study.

After an update from Program Chair **Kimberly Rygielski** on the program schedule for the current annual meeting, the Board voted to select Savannah, GA, as the host city for the 2023 MSC Annual Meeting, subject to completing a suitable host hotel agreement. Last but not least, the Board recognized and thanked Past President and Director **Michael Lange** (Black Gold Compost) for his 27 years of dedicated service on the MSC Board of Directors.

Welcome: Following lunch, MSC Executive Director **Robert LaGasse** opened the 50th MSC Annual Meeting with a call to order and introduction of Council President **Jim Weber** who gave the official welcome to all participants. Program Chair Kimberly Rygielski reviewed the program activities for the next 2 days, and MSC Legal Counsel **John Hazard** reviewed the MSC Antitrust Policy for the meeting.

The Crow Report: Bob LaGasse introduced MSC Legislative Representative **David Crow** of DCLRS (Washington, DC) who presented the industry favorite Crow Political Report. An audio recording of David’s presentation is available on the MSC website. One of the key issues noted was the potential/probable conflict between the progressive and moderate democrats on the \$3.5 trillion reconciliation bill whereby attempts by moderates to reduce the costs could cause progressives to walk away resulting in neither



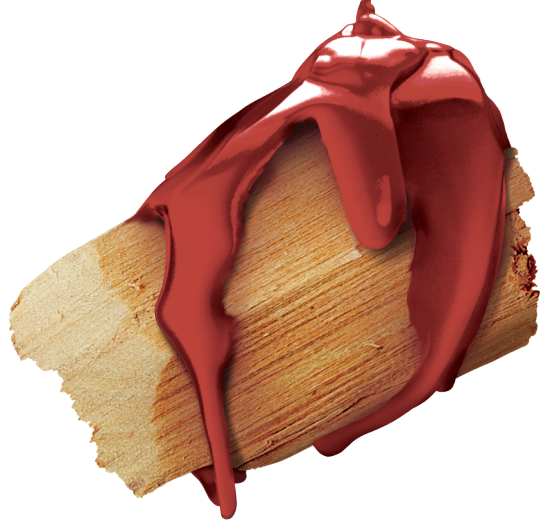
*MSC President Jim Weber
Welcomes Delegates*



*MSC Program Chair
Kimberly Rygielski*



David Crow



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side getting what they want. It is a fascinating presentation that is playing out in subsequent weeks with amazing insight.

Business Meeting Reports & Recognitions: The 50th annual Membership Meeting was well attended. President Weber noted many Council successes on transportation and regulatory issues. Current challenges include labor shortages, transportation shortages (trucks & drivers) and supply chain issues that make moving into the 2022 season an even greater challenge ahead. Following reports on committee, legislative and program activities, the membership elected 4 directors to serve on the MSC Board of Directors for 2021-2024 (see article on page 8).

Affiliate Member Reception & Exhibits: The Wednesday opening reception had 22 Associate and Affiliate Member exhibits eager to discuss the latest industry products, technologies and services with the premier mulch & soil producers in the nation. Old and new customers were available to exchange information, ideas and needs to those who provide answers and equipment to our industry. Food and drinks were generously sponsored by Vermeer Corp.

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NOTE: Pictures for Rotochopper and Profile Products were not usable but we thank them for their support.

Thursday, Sept 23:

Thursday's program began with a presentation on *The Art of Innovation* by **Ted Dirks** of Vermeer Corp. Ted described a process to move beyond incremental product tweaking to searching out and addressing major innovation opportunities for your customers and your company. A PDF and audio recording of Ted's presentation is available in the link at the end of this report on page 6.



Ted Dirks

Luke Custer of Scotts Miracle-Gro then gave a great presentation on *Consumer Insights & Gardening Trends*. A quick review of the data shows that, as a result of the Covid-19 pandemic, the workforce made drastic changes and millennials amassed significant savings. The work-from-home pandemic response created the need for better home spaces. Combining the new space needs with the savings resources has allowed millennials to move into the home-owner market creating more demand for indoor and outdoor living resources. All that and more bodes well for the mulch and soil industry, and Luke explains why in his full presentation. A PDF and audio recording of Luke's presentation is available in the link at the end of this report on page 6.



Luke Custer

Our luncheon program set a new milestone with the first female keynote presentation in the Council's 50-year history. **Erica Orange**, Vice President of The Future Hunters, spoke on *Reimagining the Future Landscape from A Macro Perspective*. Erica gave a fast-paced presentation on the impact social media, communications and new technologies are changing the way



Erica Orange

50th Annual Meeting Report

we think about and conduct business now and in the very near future. AI used to be science fiction on the horizon, but it is actually here now and is changing everything as we speak. A PDF and audio recording of Erica’s presentation is available in the link at the end of this report on page 6.

Lawson Lamar, II, of Loadscan spoke after lunch on the topic of **Advanced Production Measurement**. For mulch and soil producers, the ability to measure incoming and outgoing inventory is essential; however, 1 cu yd of this plus 1 cu yd of that and 1 cu yd of another is not always a total of 3 cu yd of output due to the interspatial relationships of the materials filling voids. You can measure such interactions and account for various shrinkage issues using the right technology, and that has bottom-line impacts on your business. A PDF and audio recording of Lawson’s presentation is available in the link at the end of this report on page 6.



Lawson Lamar, II

Our final speaker **Ann Aquillo** of Scotts Miracle-Gro was unable to attend due to an extremely urgent family matter. We offer our sympathy and support for Ann in this difficult situation. Since the topic was about things to know in Washington and how they impact MSC members, **David Crow** graciously stepped in to continue **The Crow Report – Part II**. The discussion focused on legislation like the EPA WOTUS rule, government mandates, the intra- and inter-party conflicts in Congress and other current topics before opening to a popular member Q&A session. An audio recording of David’s presentation is available in the link at the end of this report on page 6.

Our closing event was the **President’s Reception** generously sponsored by **Social Marks Media**. Participants gathered for a final opportunity to network with vendors and producers and recap the events of the meeting before returning home with renewed commitment for their business.

Sponsor Thank You: We cannot thank our sponsors enough because their support makes it possible for the Council to continually expand and improve our meeting event at no additional cost to the meeting participants. We are proud to report the following sponsor support for our members:

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----- PLATINUM -----

Social Marks Media President’s Reception
Vermeer Corp..... Opening Reception & Exhibits

----- GOLD -----

Maverick Env Equip Meeting Bags
nVenia Meet the Board Reception

----- SILVER -----

Chromascape Thursday Early Morning Break
Faltech..... Thursday Mid-Morning Break
T.H. Glennon..... Thursday Afternoon Break
Reliance Packaging Wednesday Afternoon Break

Recordings Available: To download slide presentations and audio recordings for the 50th Annual Meeting program sessions, [CLICK HERE](#).

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COUNCIL NEWS

MEMBERS ELECT NEW DIRECTORS

Mark Your Calendars Now: The 51st Annual Meeting of the Mulch & Soil Council will be held October 4-6, 2022, at the Hilton City Center Hotel in Charlotte, NC. We look forward to seeing everyone there for another record-breaking event.

The Mulch & Soil Council is pleased to announce the election of the following members as directors of the Council for 2021-2024:



Tonya Berg
Grant County Mulch
Petersburg, WV



Ron Kane
Kellogg Garden Supply
Ontario, CA



Byron Morgan
Mountain West Mulch
Rexburg, ID



Jim Weber
Ohio Mulch
Columbus, OH

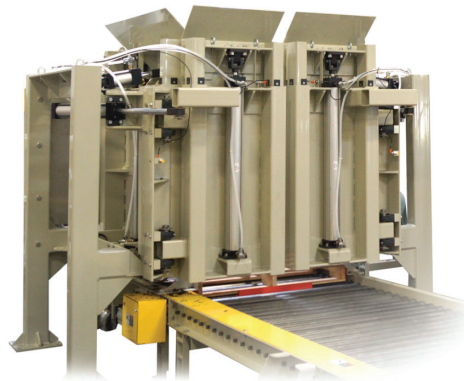
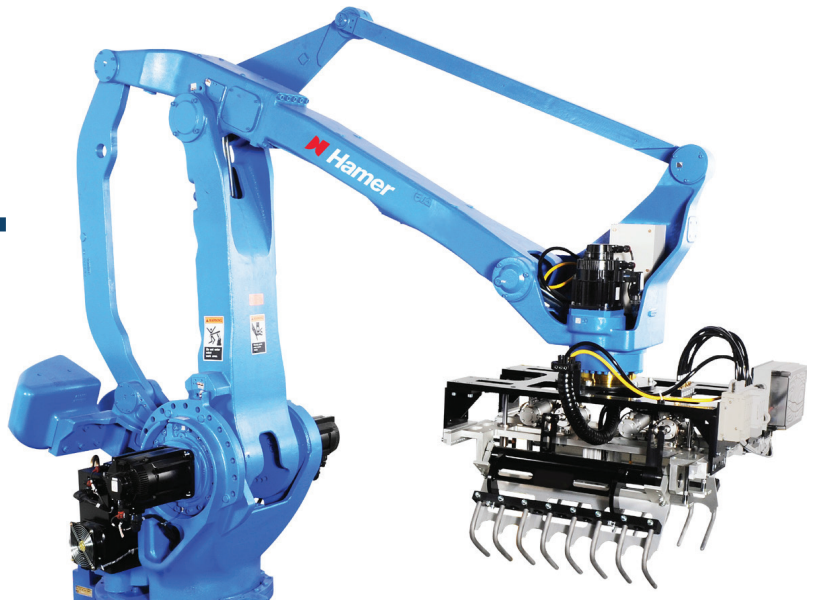
LANGE RECEIVES SERVICE AWARD

As part of the 50th Annual Membership Meeting held in Memphis on September 22, Director and Past President Michael Lange of Black Gold Compost in Oxford, FL, received a Special Recognition Award for 27 years of service on the MSC Board of Directors. Mike was first elected as a director in 1994 and served as president in 1999 and 2000. He has chaired or served on numerous committees. At the end of his director term for 2018-2021, Mike informed the Nominations Committee it was time for someone new to represent the members and he would not run for reelection.



MSC Executive Director Robert LaGasse (l) Presents the Board Service Award to Mike Lange (r) for 27 Years' Service to the Membership.

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LANGE (CONT'D)

The MSC Board of Directors was pleased to recognize Michael Lange for his many years of dedicated service before a record attendance of the membership at this year's annual meeting. Mike will continue serving the Council on committees and in other capacities as needed.

UPDATED MEMBER LIST & DIRECTORY

This year has shown an increased growth in membership leading up to and following the annual meeting in Memphis. Because of that growth, we have posted updated copies of our basic membership listing and a separate full-information membership directory on the MSC website under the "About Us" tab at the bottom of the page. To download a copy of the basic list, click [BASIC LIST](#). To download a copy of the full MSC Membership Directory, click [MEMBERSHIP DIRECTORY](#) or go to the MSC website.

LEGISLATIVE & REGULATORY NEWS



The CROW Political Report

By David Crow
DC Legislative & Regulatory Services

The Environmental Protection Agency (EPA) and Army Corps of Engineers (ACOE) announced earlier this year the intent to scrap the Trump Administration's Navigable Rivers Protection Act (NVPR) and return to a rule that most closely resembles the Waters of the US Rule written by then EPA Administrator Gina McCarthy, which would place most water, intrastate and interstate, under the purview of EPA and ACOE. The Trump Administration's NVPR rule restored the federal-state balance that was written into the 1972 Clean Water Act, but the WOTUS rule made a determination that all waters are connected and therefore should fall under federal review.

EPA and ACOE cited 333 water projects that are currently not jurisdictional under the NVPR. These projects, according to the Biden Administration, if allowed to go forward will cause irreparable harm to health and the environment. No data or facts have been released to support this. Our legal counsel has stated repeatedly that the lack of evidence shown for this determination is devoid of any demonstrated potential harm.

It is no secret that White House Climate Change Advisor, Gina McCarthy, architect of the WOTUS rule was determined to return to the rule she wrote in 2015.

The NVPR rule went through a lengthy and formal Administrative Procedures Act policy of formally withdrawing WOTUS and then replacing it with the NVPR through a public comment period to rescind and write the new rule. It is not clear if the Biden Administration will do the same. They may rely on Executive Orders, which are easily reversed in a new Administration and they will certainly mount as many legal challenges as possible.

EPA will also seek to change the definition of ephemeral waters, adjacent wetlands, flood plains, and other wet definitions making it easier for EPA and ACOE to regulate with the use of permits for all water projects and many non-point source water pollution activities which would affect our membership.

We are at the beginning of a long cycle that will take two or more years. The Administration will also add Climate Change and Environmental Justice to many water related decisions making them more difficult for industry to contest.

EPA Environmental Justice Announcement

ALSO, the Biden EPA has unveiled its draft strategic plan for fiscal years 2022-2026 that seeks to integrate climate change and environmental justice considerations into all agency actions, an effort that aims to formally institutionalize the administration's priority items into EPA's policy agenda

"EPA is at the center of the Biden-Harris administration's agenda on climate change and environmental justice, and so it's critical that our strategic direction reflect those priorities and values," Administrator Michael Regan said in an Oct. 1 statement.

The draft plan, released Oct. 1, adds addressing climate change and environmental justice to the traditional programmatic goals for enforcement and compliance, air

quality, water quality, land revitalization, and chemical safety. And it highlights three short-term goals for FY22-23 that “are intended to jumpstart actions and showcase progress toward” addressing Regan’s priorities.

These are: phase down the production and consumption of hydrofluorocarbons; clean up contaminated sites and invest in water infrastructure to enhance the livability and economic vitality of overburdened and underserved communities; and work with the Department of Housing and Urban Development to reduce exposure to lead to protect families, particularly children, in overburdened and underserved communities.

The draft document generally follows the same outline that agency staff shared with state officials earlier this year, with seven strategic goals and four cross-agency strategies.

“In this Strategic Plan, the Agency renews its commitment to the three principles articulated by William Ruckelshaus, who served as the EPA’s first Administrator (1970 -- 1973, and then again from 1983 -- 1985), to: follow the science, follow the law, and be transparent,” the draft plan says.

“The Agency also adds a fourth foundational principle: advance justice and equity. We add this principle to infuse the consistent and systematic fair, just, and impartial treatment of all individuals into all EPA policies, practices, and programs,” the plan continues.

The draft plan also includes a first-time learning agenda and capacity assessment, consistent with the requirements of the Foundations for Evidence-Based Policymaking Act of 2018. “The Learning Agenda will address key questions across priority areas by leveraging high-quality data. The Capacity Assessment will guide our efforts to develop the skills, expertise, and infrastructure that support routine, rigorous use of data,” the draft plan says.

And its four cross-agency strategies “describe the essential ways EPA will carry out our mission,” the agency says. These strategies include reinforcing science as foundational to agency decision making; protecting children’s environmental health; building back EPA’s workforce with particular attention to equity and enhancing mission-support functions to achieve organizational excellence; and renewing the agency’s commitment to EPA’s trust responsibility to tribal nations and our engagement with tribal, state, and local government partners, stakeholders, the regulated community, and the public.

The strategic plan includes a suite of long-term performance goals (LTPGs) that reflect the quantifiable outcomes the agency will achieve for each strategic objective and cross-agency strategy by 2026. “LTPGs will help us understand, monitor, and tell the story of progress we are making to partners and external stakeholders, Agency employees, and the public,” the plan says. EPA is taking public comment on the draft plan until Nov. 12 and says it expects to send the final plan to Congress in February. -- *Lara Beaven* (lbeaven@iwpnews.com)



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**SPOTTED
LANTERNFLY
PROGRAM**



The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has completed a draft supplemental environmental assessment (EA) required under the National Environmental Policy Act for its spotted lanternfly program. The previous EA for the spotted lanternfly program was finalized in June 2020 and included control and monitoring activities in the mid-Atlantic Region, Kentucky, North Carolina, and Ohio. This draft supplemental EA covers the same activities addressed in the [June 2020 EA](#) and adds ground-based mist blower treatments at intermodal facilities and along railroad right of ways. Mist blower treatments are proposed at these sites, statewide in Pennsylvania, and select counties in Ohio, Maryland, Virginia, and West Virginia.

The spotted lanternfly may occur on a variety of plant species, including tree-of-heaven, grapevine, stone fruits (apricot, cherry, nectarine, peach, and plum), and other tree species (apple, oak, pine, poplar, and walnut). If allowed to spread, this pest may be harmful to grape, apple, peach, stone fruit, and logging industries.

APHIS is posting a notice of availability for the draft supplemental EA in newspapers in states that have a spotted lanternfly control program. APHIS is publishing the draft supplemental EA at <https://www.regulations.gov/> and on the APHIS website at [USDA APHIS | Spotted Lanternfly](#) for a 30-day public comment period.

**FIRE ANT
QUARANTINE
EXPANDED**



Effective immediately, the Animal and Plant Health Inspection Service (APHIS) is issuing a Federal Order that expands the existing imported fire ant (IFA) quarantine areas in North Carolina and Tennessee. APHIS is taking this action to prevent the interstate spread of IFA. The following list describes the action in this Federal Order:

- North Carolina: Extends the IFA quarantine area to the entire county for Alamance, Burke, Guilford, Jackson, and McDowell Counties.
- Tennessee: Extends the IFA quarantine area to the entire county for Cheatham, Davidson, Dickson, Gibson, Grainger, Henry, Lauderdale, Montgomery, Putnam, Smith, Stewart, Sumner, Trousdale, and Weakley Counties.

APHIS is taking these actions based upon verification from the North Carolina Department of Agriculture and Consumer Services and the Tennessee Department of Agriculture's Division of Consumer and Industry Services that IFA is present and established in the areas listed. For additional information on the Federal IFA regulatory program, please contact the IFA National Policy Manager, Herbert Bolton, at (301) 851-3594 or herbert.bolton@usda.gov.

Imported Fire Ants are notorious hitchhikers and are readily transported long distances when articles such as soil, nursery stock, and other items are shipped outside the infested area. Provisions of the Federal Imported Fire Ant Quarantine (7 Code of Federal Regulations, part 301.81) were invoked May 6, 1958, in an effort to slow or prevent the artificial spread of imported fire ants (*Solenopsis invicta* Buren, *S. richteri* Forel, or their hybrids).

Regulated Articles for Imported Fire Ants:

1. Imported fire ant queens and reproducing colonies of imported fire ants.
2. Soil, separately or with other things, except soil samples shipped to approved laboratories (consult with a State or Federal inspector for a list of approved laboratories). **Potting soil is exempt if commercially prepared, packaged, and shipped in original container.**
3. Plants with roots and soil attached, except house plants maintained indoors and not for sale.
4. Grass sod
5. Baled hay and straw that has been stored in contact with soil.
6. Used soil-moving equipment.
7. Any other products, articles, or means of conveyance of any character whatsoever not covered by the above, when it is determined by an inspector that they present a hazard of spread of the imported fire ant and the person in possession thereof has been so notified.

APHIS FIRE ANT QUARANTINE MAP



LACEY ACT UPDATE



The USDA's Animal and Plant Health Inspection Service (APHIS) published a notice in the Federal Register announcing the implementation of Phase VI of the Lacey Act enforcement schedule. Effective October 1, 2021, Phase VI will require a plant import declaration for additional products such as essential oils and **wooden pallets** that are imported into the United States.

To view the notice and the harmonized tariff codes that are included in Phase VI, go to <http://www.regulations.gov>, and enter APHIS-2008-0119-0329 in the search field. The new harmonized tariff codes will be available on the Lacey Act [website](#) on October 1, 2021, which also has information on how to file a Lacey Act declaration.

OCT 14 DEADLINE FOR NJ SOIL & FILL LICENSE



On March 9, 2020, Governor Philip D. Murphy issued Executive Order No. 103 (EO 103) declaring the COVID-19 pandemic to be both a Public Health Emergency (PHE) and State of Emergency in New Jersey. On May 2, 2020, Governor Murphy issued Executive Order No. 136 (EO 136) which in part tolled certain deadlines established in the Dirty Dirt law due to the continuing PHE. Pursuant to EO 136, each deadline was extended by the total number of days of the PHE plus an additional 60 days.

The original deadlines in the "Dirty Dirt law" signed by Governor Murphy on January 21, 2020 required that:

- Any business concern wishing to engage in Soil and Fill Recycling Services that did not already possess an A-901 License as of January 21, 2020 submit a Registration form to the New Jersey Department of Environmental Protection (NJDEP) no later than April 20, 2020;
- Any business concern without a valid A-901 or Soil and Fill Recycling Registration must cease to engage in Soil and Fill Recycling Services after July 20, 2020; and
- To obtain an A-901 License, a Registrant must submit a valid and administratively complete application to the New Jersey Attorney General's Office no later than October 20, 2020.

On June 4, 2021, Governor Murphy signed Executive Order 244 (EO 244) ending the PHE and setting the expiration date of EO 136 to July 4, 2021. Pursuant to this order, the new deadlines for the Dirty Dirt Law are as follows:

- Any business concern wishing to engage in Soil and Fill Recycling Services that did not already possess an A-901 License on January 21, 2020 must submit a Registration form to NJDEP no later than October 14, 2021;
- Any business concern that does not possess a valid A-901 License or Soil and Fill Recycling Registration must cease to engage in Soil and Fill Recycling Services after January 13, 2022; and
- To obtain an A-901 License, a Registrant must submit a valid and administratively complete A-901 License application to the New Jersey Office of the Attorney General no later than April 15, 2022.



Please contact NJDEP's A-901 Unit via phone at (609) 984-4250 or e-mail at soilandfill@dep.nj.gov should you have any questions.

CHAPTER 397¹

AN ACT concerning regulation of the solid waste, hazardous waste, and soil and fill recycling industries, amending and supplementing P.L.1983, c.392, and amending P.L.1991, c.269 and P.L.1971, c.461

Definition: "Soil and fill recyclable materials" means non-putrescible aggregate substitute, including, but not limited to, broken or crushed brick, block, concrete, or other similar manufactured materials; soil or soil that may contain aggregate substitute or other debris or material, generated from land clearing, excavation, demolition, or redevelopment activities that would otherwise be managed as solid waste, and that may be returned to the economic mainstream in the form of raw materials for further processing or for use as fill material. "Soil and fill recyclable materials" shall not include: (1) Class A recyclable material, as defined by regulation adopted pursuant to section 4 of P.L.1989, c.268 (C.13:1E-99.43); (2) Class B recyclable material, as defined by regulation adopted pursuant to section 4 of P.L.1989, c.268 (C.13:1E-99.43), that is shipped to a Class B recycling center approved by the department for receipt, storage, processing, or transfer in accordance with subsection b. of section 41 of P.L.1987, c.102 (C.13:1E-99.34); (3) beneficial use material for which the generator has obtained prior approval from the department to transport to an approved and designated destination pursuant to regulations adopted pursuant to subsection a. of section 6 of P.L.1970, c.39 (C.13:1E-6); and (4) virgin quarry products including, but not limited to, rock, stone, gravel, sand, clay and other mined products

¹ Link to full law https://www.nj.gov/dep/dshw/a901/pl_2019_c_397.pdf

**NEW OSHA HEAT
INITIATIVE**



To combat the hazards associated with extreme heat exposure – both indoors and outdoors – the White House recently announced enhanced and expanded efforts the U.S. Department of Labor is taking to address heat-related illnesses. As part of the [Biden-Harris administration's interagency effort](#) and commitment to workplace safety, climate resilience, and environmental justice, the department's [Occupational Safety and Health Administration](#) is initiating enhanced measures to protect workers better in hot environments and reduce the dangers of exposure to ambient heat.

While heat illness is largely preventable, and commonly under-reported, thousands of workers are sickened each year by workplace heat exposure. Despite widespread under-reporting, [43 workers died](#) from heat illness in 2019, and at least 2,410 others suffered serious injuries and illnesses. Increasing heat precipitated by climate change can cause lost productivity and work hours resulting in large wage losses for workers. The Atlantic Council's Adrienne Arsht-Rockefeller Foundation Resilience Center estimates the economic loss from heat to be at least \$100 billion annually – a number that could double by 2030 and quintuple by 2050 under a higher emissions scenario.

To emphasize its concern and take necessary action, OSHA is implementing [an enforcement initiative](#) on heat-related hazards, developing a [National Emphasis Program](#) on heat inspections, and launching a rulemaking process to develop a workplace heat standard. In addition, the agency is forming a [National Advisory Committee on Occupational Safety and Health](#) Heat Injury and Illness Prevention Work Group to provide better understanding of challenges and to identify and share best practices to protect workers.

OSHA implemented an intervention and enforcement initiative recently to prevent and protect workers from heat-related illnesses and deaths while they are working in hazardous hot environments. The newly established initiative prioritizes heat-related



interventions and inspections of work activities on days when the heat index exceeds 80 degrees Fahrenheit.

The OSHA initiative applies to indoor and outdoor worksites in general industry, construction, agriculture and maritime where potential heat-related hazards exist. On days when a recognized heat temperature can result in increased risks of [heat-related illnesses](#), OSHA will increase enforcement efforts. Employers are encouraged to implement intervention methods on heat priority days proactively, including regularly taking breaks for water, rest, shade, training workers on how to identify common symptoms and what to do when a worker suspects a heat-related illness is occurring, and taking periodic measurements to determine workers' heat exposure. OSHA Area Directors across the nation will institute the following:

- Prioritize inspections of heat-related complaints, referrals and employer-reported illnesses and initiate an onsite investigation where possible.
- Instruct compliance safety and health officers, during their travels to job sites, to conduct an intervention (providing the agency's heat poster/wallet card, discuss the importance of easy access to cool water, cooling areas and acclimatization) or opening an inspection when they observe employees performing strenuous work in hot conditions.
- Expand the scope of other inspections to address heat-related hazards where work-site conditions or other evidence indicates these hazards may be present.

In October 2021, OSHA will take a significant step toward a federal heat standard to ensure protections in workplaces across the country by issuing an Advance Notice of Proposed Rulemaking on heat injury and illness prevention in outdoor and indoor work settings. The advance notice will initiate a comment period allowing OSHA to gather diverse perspectives and technical expertise on topics including heat stress thresholds, heat acclimatization planning, exposure monitoring, and strategies to protect workers.

The agency is also working to establish a National Emphasis Program on heat hazard cases, which will target high-risk industries and focus agency resources and staff time on heat inspections. The 2022 National Emphasis Program will build on the existing Regional Emphasis Program for Heat Illnesses in OSHA's Region VI, which covers Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

INDUSTRY NEWS

PLAINTIFFS DEMAND NOP DECERTIFY ALL GH GROWERS



As reported by the Coalition for Sustainable Organics (CSO), the Center for Food Safety and a gang of organic farms recently [filed the brief to appeal](#) their loss in court where U.S. District Judge Seeborg [ruled against the argument](#) that USDA did not have authority to authorize organic certification for growers that do not grow exclusively in the outer crust of the Earth. This appeal continues to challenge the authority of the USDA to certify organic producers of products like tomatoes, mushrooms, sprouts, berries, cucumbers, peppers, microgreens, leafy greens and herbs that use containers as part of their efforts to meet their site-specific conditions. It is expected that a three-judge panel will conduct oral arguments in the case in early 2022.

SUPPLY CHAIN BOTTLENECKS LIKELY INTO 2022

Stifling supply chain bottlenecks are likely to remain — and possibly worsen — in the months ahead as consumers follow back-to-school purchases with end-of-year holiday shopping, according to experts who spoke with *Transport Topics*.

“It seems like every time we find a path out of the disruption, we find another disruption,” Association of Supply Chain Management Executive Vice President Douglas Kent told *Transport Topics Newsletter* (TT). “It’s a multitude of problems. I wouldn’t



Container Congestion at Record Levels

BOTTLENECK (Cont'd)

put the pandemic as the main disrupter, but it certainly has highlighted some of the vulnerabilities in the supply chain. Some are operational and some are strategic, and the strategic ones are going to be hardest to fix and a much longer cycle time.”

The trucking industry’s ongoing driver shortage also is contributing with fleets parking trucks due to an inability to fill seats behind the wheel. That’s causing freight to back up. The industry acknowledges that for-hire truckload carriers are operating fewer trucks than a year earlier. It is difficult to haul significantly more freight with fewer trucks and drivers.

Ports on the Atlantic and Pacific coasts are reporting record volume this year, with imports far outstripping exports. Currently over 100 ships were waiting in San Pedro Bay off the Southern California coast to call on the ports of Los Angeles and Long Beach. Wait times stretched for as long as 10 days. That backlog has eased, but port officials worry about a return as the holiday rush gets underway.

Meantime, demand for warehouse space is skyrocketing. According to the July Logistics Managers’ Index, the national warehouse vacancy rate is a very tight 4.8%, and drops dramatically in areas near ports to as low as 1.7%. The report said metropolitan areas suffer from a lack of capacity as firms fight to position their goods close enough to consumers to allow for next- or same-day delivery. In recent weeks, brands including Adidas, Crocs and Hasbro have warned the supply chain problems are worsening and could easily spill into the crucial year-end period.

A lot of the holiday gifts are manufactured outside of the U.S. and if you take a look at some of the big exports coming from China — computers, accessories, bicycles, toys, etc. — the reality is they should be here now. Continued disruption in China with COVID, and disruption in all modes of shipping, and the increase in shipping costs will significantly impact U.S. consumers.

Goods being returned are also driving up costs, and further choking supply chains. E-commerce accounted for more than 21% of the total U.S. economy last year, as consumers spent \$861.1 billion online with U.S. merchants. According to the National Retail Federation, last year 10.6% of all items purchased — online and at brick and mortar stores — were returned. The NRF said online returns last year cost \$102 billion, nearly double the prior year.

GXO Logistics, the XPO contract logistics spinoff, on Aug. 17 released its first global survey, which focused on trends in e-commerce and returns. The findings showed 36% of retailers say online returns have increased over the past 12 months. It also found as many as 35% of goods bought online are returned.

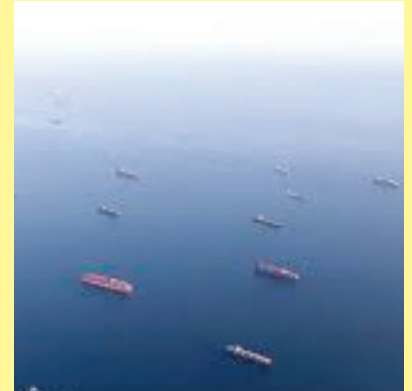
Whatever the number, product returns are creating an entirely new online industry that deals with the issue, but returned and damaged products are taking up badly needed warehouse space. And drivers who might otherwise deliver a package are instead hauling unwanted items away.

“Now there’s an unanticipated increase in demand on the reverse logistics side, and that process is often not as mature as the purchase or forward side,” Kent said. “When you have a lot of high levels of e-commerce causing the potential for higher levels, there’s the potential for problems.”

USPS SAYS ADJUST YOUR EXPECTATIONS

The U.S. Postal Service made changes to its express shipping as of Oct. 1 that will likely delay some mail going across country. The USPS says it hasn’t been able to hit its promised delivery targets for years; so, the public needs to adjust its expectations downward. These changes make those targets more attainable, cost-effective and realistic.

The new standards — part of USPS’ Delivering for America Strategic Plan — will increase “time in transit” windows for up



OVER 100 CARGO SHIPS WAIT WEEKS
OFF THE CA COAST TO UNLOAD.





to two days, holding up mail with longer delivery routes. The changes are set to delay first-class mail and periodicals.

First-class mail covers standard-sized envelopes weighing up to 3.5 ounces, and large envelopes and small packages weighing up to 13 ounces. Previously, delivery was promised in three business days or less. On an information page about the changes, USPS stated that the updates “will improve service reliability and predictability” and were a “necessary step toward achieving our goal of consistently meeting 95% service performance.” Approximately 61% of first-class mail and 93% of periodical delivery times will remain unaltered. Mail sent locally is unlikely to be impacted, according to a USPS press release.

USPS explained in a report that the standards — with first-class mail expected to arrive within three days — are “unattainable” due to changes in the market and standards “not based on delivery distances.” The report additionally stated that USPS’ attempt to live up to the current standards produced an over-reliance on air travel, which the report added is more expensive than ground transportation. It further revealed that USPS has been unable to meet its published service standards over the past eight years.

Louis DeJoy, U.S. postmaster general, unveiled the organization’s 10-year-plan earlier this year, which involved adjusting delivery time frames for first-class letters, periodicals and flat envelopes for up to five days.

The changes were in part necessitated from the USPS’ staggering billions in losses over the years. In 2020, the postal service posted a \$9.2 billion loss even though total revenues increased by \$2 billion (to \$73 billion). Package delivery increased sharply during the pandemic (18.8%), but first-class mail experienced a 4.2% decline, according to a February report in Forbes magazine.

Critics of the new standards worry that they might hurt mail recipients. In a July letter, the Postal Regulatory Commission issued an opinion, writing “The Commission finds that the amount of estimated annual cost savings, even if fully realized, does not indicate much improvement, if any, to the Postal Service’s current financial condition... Therefore, it is not clear that the tradeoff between financial viability and maintaining high-quality service standards is reasonable.”

So, get ready to lower your expectations and experience poorer service at the same or greater cost.

TOP 25 FOR-HIRE TRUCKING CO

**TRANSPORT TOPICS
Top 25 For-Hire Trucking Companies**

2021 Rank	2020 Rank	Company	Revenue (000)	Net Inc. (000)	Employees	Tractors	Trailers
1	1	UPS Inc.	84,628,000	1,343,000	543,000	15,719	87,954
2	2	FedEx Corp.	78,752,000	3,029,000	500,000	36,598	132,540
3	3	XPO Logistics	16,252,000	79,000	102,000	15,500	40,000
4	4	J.B. Hunt Transport Services	9,640,000	506,035	30,364	17,777	35,857
5	11	TFI International	6,347,134	275,675	16,753	24,604	49,713
6	7	Knight-Swift Transportation Holdings	4,673,863	410,002	22,900	19,025	57,722
7	5	Schneider	4,552,800	211,700	15,225	9,000	36,900
8	5	Yellow Corp.	4,513,700	-53,500	30,000	13,500	41,900
9	9	Landstar System	4,132,981	192,106	1,320	10,991	17,061
10	8	Old Dominion Freight Line	4,015,129	672,682	19,779	9,288	36,650
11	10	Ryder Supply Chain Solutions	3,773,800	233,382	-	73,300	43,300
12	13	Estes Express Lines	3,559,000	-	19,000	8,043	32,656
13	12	Hub Group	3,495,644	73,559	5,000	3,600	4,800
14	15	Penske Logistics	3,200,000	-	19,954	6,674	21,961
15	14	ArcBest	2,940,163	71,100	13,000	4,136	22,776
16	18	NFI	2,630,000	-	14,500	4,500	12,500
17	16	Werner Enterprises	2,372,178	169,078	12,292	7,861	24,400
18	17	Prime Inc.	2,208,764	326,543	4,839	7,199	14,162
19	19	R+L Carriers	1,973,000	-	-	-	-
20	21	Saia Inc.	1,822,366	138,340	10,600	5,700	17,400
21	24	U.S. Xpress Enterprises	1,742,101	17,632	7,998	6,500	13,000
22	36	Purolator	1,646,117	-	10,882	462	1,649
23	22	Kenan Advantage Group	1,572,138	-	8,600	6,854	12,283
24	25	CRST The Transportation Solution	1,502,737	-	6,631	4,704	13,994
25	26	C.R. England	1,466,947	-	7,150	4,000	6,600

NOW SHORT 80,000

MEMBER NEWS

**WECARE DENALI
ACQUIRES SWANSON**

The trucking industry is now short at least 80,000 drivers, according to ATA Chief Economist Bob Costello, who on Oct. 20 raised the estimate of drivers needed from 61,500 in his annual findings.

Jeffrey LeBlanc, Chief Growth Officer of Denali Water Solutions LLC, announced the acquisition of Swanson Bark & Wood through its wholly-owned subsidiary, WeCare Denali, LLC. Swanson Bark & Wood operates multiple sites in the Pacific Northwest where they process organic waste to produce high-value mulch and soil products for national lawn & garden companies, retailers, and landscapers. Swanson was founded in 1928 and, since 2018, has undergone a rapid modernization to expand its bagged and bulk sales and capabilities while increasing its overall productivity.

Jeffrey LeBlanc said, "We are thrilled with the acquisition of Swanson Bark & Wood, it is a great fit within the WeCare Denali brand as it expands our geographical footprint, provides additional products and services to new and existing customers, and it fits into our overall growth strategy. We are excited to add all 150 employees to the Denali team and look forward to continuing to champion winning solutions and drive performance by constantly developing people, products, and processes."

Steve Liffers, Co-President of Swanson, said, "both **Jeff Jackson**, Co-President of Swanson, and I, along with our entire team, are excited to become members of the Denali family. The Swanson commitment to recycling and environmental sustainability fits in perfectly with Denali's purpose to manage waste responsibly by converting organic waste into valuable end-products."

The Swanson facilities produce high-quality mulch, compost, and soil products from recycled organic materials and distribute them throughout the Western United States. Swanson's locations in the Pacific Northwest are in Everett, Washington, and Longview, Washington. This acquisition reinforces WeCare Denali's desire to expand its reach with bagged and bulk products throughout the Western United States.

HELP WANTED

Scotts Miracle-Gro is looking for a *Regulatory Affairs Analyst, Growing Media* who will join its Regulatory team in Marysville, OH. This position is responsible for obtaining and maintaining federal/state/territory registrations of Scotts products, focusing on growing media and soils. This individual will develop registration strategies in order to meet the timing needs of the business with minimal oversight. This individual continues to develop internal and external relationships with key stakeholders. For information on the job and qualifications to apply, [CLICK HERE](#).

New Member Welcome

The Mulch & Soil Council is pleased to welcome the following companies as new members:

PRODUCER MEMBERS:

McGill Environmental Systems of NC, Inc.

Noel Lyons
634 Christian Chapel Church Rd
New Hill, NC 27562
TEL: 919.362.1161
nlyons@mcgillcompost.com

Nature's Earth Products

Matt Marek
10957 Highway 64 East
Arlington, TN 38002
TEL: 901.377.5430
matt@natureearthproducts.com
www.natureearthproducts.com

Certified Product News

Recertified Products

Florida Mulch Inc.
Kellogg Garden Products
Permagreen Organics Co.
Permagreen Organics Co.
Permagreen Organics Co.
Superior Cedar Products, Inc.
The Scotts Company
The Scotts Company
The Scotts Company
The Scotts Company
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The Scotts Company
The Scotts Company

KSI (Kellogg)
Miracle-Gro Lawn Products, Inc.
Miracle-Gro Lawn Products, Inc.
Miracle-Gro Lawn Products, Inc.
Miracle-Gro Lawn Products, Inc.
Swiss Farms Products, Inc.
Swiss Farms Products, Inc.
The Scotts Company
The Scotts Company

Kellogg Garden Products
Miracle-Gro Lawn Products, Inc.
Sun Gro Horticulture
Swiss Farms Products, Inc.
Swiss Farms Products, Inc.
Swiss Farms Products, Inc.
The Scotts Company
The Scotts Company

Terrace Brands
Terrace Brands

Mulch

Brown Color Enhanced Mulch
Gardeners' Shredded Redwood
Vigoro Premium Black Mulch by Permagreen Organics
Vigoro Premium Brown Mulch by Permagreen Organics
Vigoro Premium Red Mulch by Permagreen Organics
Premium Cedar Mulch
Earthgro by Scotts Black Mulch
Earthgro by Scotts Brown Mulch
Earthgro by Scotts Red Mulch
Scotts Nature Scapes Finest Classic Black Mulch
Scotts Nature Scapes Finest Deep Forest Brown Mulch
Scotts Nature Scapes Finest Sierra Red Mulch
Scotts Nature Scapes Triple Shred Black Mulch
Scotts Nature Scapes Triple Shred Brown Mulch
Scotts Nature Scapes Triple Shred Red Mulch

Landscape Soils

Gardeners Chicken Manure
Miracle-Gro Moisture Control Garden Soil 0.09-0.05-0.07
Miracle-Gro Tree & Shrub Soil 0.09-0.05-0.07
Nature's Care Organic Garden Soil w/Water Conserve 0.12-0.10-0.12
Nature's Care Organic Garden Soil w/Water Conserve 0.125-0.08-0.125
Green Thumb Enriched Garden Soil 0.06-0.04-0.05
Vigoro All-Purpose Garden Soil 0.05-0.05-0.03
Osmocote Planting Soil 0.15-0.05-0.10
Scotts Turf Builder Lawn Soil

Premium Soils

Kellogg Raised Bed & Potting Mix
Nature's Care Organic & Natural Potting Mix w/Water Conserve 0.15-0.13-0.15
Sunshine Natural & Organic Planting Mix
Green Thumb Moisture Manager Potting Mix 0.07-0.05-0.06
Green Thumb Premium Enriched Potting Mix 0.07-0.05-0.06
Vigoro All-Purpose Potting Mix 0.07-0.04-0.03
Osmocote Potting Soil 0.07-0.01-0.03
Scotts Moisture Advantage Premium Potting Soil 0.07-0.05-0.06

Standard Soil

Northern Naturals Gardening Organic Garden Soil 0.04-0.03-0.03
Northern Naturals Gardening Organic Potting Mix 0.06-0.04-0.05

MARK YOUR CALENDAR

