

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE)

SOLID WASTE FACILITY PERMIT FOR CLOSED LANDFILLS

RECOMMENDED PROCEDURES

Background

Operators have been and are ceasing operating landfills without obtaining closure plan approval and/or implementing closure activities. Issuance of permits that reflect closure would help to address this issue by enhancing the Enforcement Agency's (EA's) enforcement authority. If permits are issued, additional enforcement options are available since violations of permit conditions afford other enforcement opportunities.

Furthermore, statute is nebulous concerning the direct enforceability of closure and postclosure maintenance plans provisions absent a permit. Statute (Public Resources Code [PRC] 43507) states that upon receipt of the final shipment of waste the approved closure and postclosure maintenance plans are to be the governing documents for the disposal site. As the authority for enforcing compliance with these plans is not clearly specified in the statutes, incorporation of the plans into the existing solid waste facility permit is advisable.¹

Regulation

The pertinent regulation states in part:

Title 27, California Code of Regulations (27 CCR)
21870. CIWMB² - Implementation of Closure Plan

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“(e)(1) The final or partial final closure and postclosure maintenance plans shall be considered as a Report of Facility Information Amendment pursuant to section 21665. The final closure and postclosure maintenance plans shall be considered the application package required by section 21665(a).

(2) The SWFP shall be deemed to incorporate by reference, as terms and conditions of the permit, the provisions of the final or partial final closure and postclosure maintenance plans and all applicable standards set forth in Chapter 3 - Criteria for All Waste Management Units, Facilities, and Disposal Sites.

¹ Please note that prior to enactment of Assembly Bill 59 (Sher, Statutes 1995), revised solid waste facility permits to reflect closure were prescribed for closed landfills. Interpretation of revised statute at that time (PRC 43507) concluded that closure permits were not necessary. However, the Regional Water Quality Control Boards (RWQCBs), which are also subject to the statute, continued to issue waste discharge requirements for closed landfills.

² CIWMB is now CalRecycle.

(3) No later than upon approval of the Certification of Closure, the EA shall update the permit pursuant to the procedures specified under section 21670. This update takes the place of a permit review under sections 21620 or 21640.”

Regulation Summary

The regulation states that the final or partial final closure and postclosure maintenance plans are considered to be the application package for a permit action and should be treated as a Report of Facility Information amendment. Therefore, no other documents are needed to complete the permit application.

The provisions of the closure plans are incorporated by reference as a condition of the existing solid waste facility permit (SWFP). No physical revision of the permit is necessary at the time of plans approval.

An updated permit is required prior to acceptance by all of the agencies of full final closure certification. The update follows the same general procedures as for change in owner/operator/address. No new permit is required. This would be an update of the existing SWFP. The closure permit is not issued for a partial final closure but only when the entire site is formally certified closed. However, since both the partial final and the full final closure and postclosure maintenance plans are incorporated by reference into the existing operating permit, the timelines for both partial final and full final closure and the postclosure maintenance procedures for the partial closed area(s) are enforceable as conditions of the permit.

Applicability

Permit actions under 27 CCR 21870(e) are only required for landfills that close under closure plans after the effective date of the regulation (i.e., applies to landfills that have not initiated closure construction activities on or before the effective date of 2/25/03). Conversely, if a landfill initiated closure construction activities under an approved final closure plan prior to February 25, 2003, compliance with 27 CCR 21870(e) would not be mandatory. However, an EA may issue permits to other closed solid waste disposal sites which closed under approved final closure plans (post-1988 sites) at its discretion.³

Implementation

Title 27 CCR section 21870(e) specifies the procedures by which a final closure and postclosure maintenance plan is incorporated into the existing solid waste facility permit and the eventual administrative revision of the permit.

Because of potential enforcement issues, the SWFP (permit) needs to continue into the closure and postclosure maintenance period of landfill operation. However, the permit actions needed to be accomplished by the EA are either automatic (after approval of the final or partial final closure and postclosure maintenance plans) or ministerial (update of permit prior to closure

³ For the reasons listed in *Background* CalRecycle staff recommends that the EA update the SWFP for these sites.

certification). When final plans are approved, the plans and the corresponding state minimum standards are automatically incorporated by reference into the existing permit. Therefore, no permit action by the EA is necessary. Prior to final closure certification approval, the permit does need to be updated; however, the permit is updated using the ministerial procedures specified for change in owner and/or operator.

Following are the recommended procedures to update the SWFP⁴:

1. Since the approved final (or partial final) closure and postclosure maintenance plans (FCPMP) are considered the application package, a SWFP application form (CIWMB⁵-E-1-77) would not be required.
2. EA staff start the preparation of a draft SWFP (closure permit) sometime between the time closure construction starts (since FCPMP are due two years prior to the anticipated closure date, it would seem best to wait to start the process until closure construction has at least started) and the approval of the certification of closure.
3. The draft SWFP will incorporate terms and conditions applicable to a site that is closed. (CalRecycle staff has developed a draft closure permit).
4. EA forwards a copy of the draft SWFP to the owner/operator for their review and comment.
5. EA addresses any comments by the owner/operator.
6. EA has the appropriate EA Director sign the SWFP with a new issued and permit review due date included. SWFP should be issued after certification report submitted but prior to or at acceptance of closure certification report by all of the agencies.
7. EA forwards a copy of the issued SWFP to CalRecycle and the owner/operator.

Please note that since the final closure and postclosure maintenance plans are incorporated into the existing SWFP upon plans approval, it is not necessary to issue the closure permit until closure construction is complete and certified.

Furthermore, the update of the SWFP to reflect closure of a landfill is not considered an action requiring a public information meeting. However, in order to maintain this condition, the updated SWFP must not contain any new special conditions.⁶ Furthermore, any solid waste handling activities (e.g., transfer station, compost operation, chip and grind, etc.) that require a SWFP, need to be permitted under a separate SWFP with a separate facility number. Conversely, the SWFP for the closed landfill shall not also regulate any other solid waste activity.

Five-Year Permit Review

⁴ The updated SWFP would only be required upon the closure of the entire landfill. While the partial final closure and postclosure maintenance plans are incorporated into the SWFP by reference, no change in the permit is necessary; however, the partial closure should be reflected in the permit at the next permit revision.

⁵ CIWMB is now CalRecycle

⁶ The draft SWFP prepared by CalRecycle staff only contains conditions that are reiterations of statute and/or regulations or reference the approved closure and postclosure maintenance plans. If a “special condition” is necessary the EA should request that the closure and/or postclosure maintenance plan be revised to incorporate the condition.

As with all SWFPs, a five-year permit review is required. However, the five-year permit review for closed landfills is expected to be very straightforward. CalRecycle staff would expect the review to primarily consist of an updated postclosure maintenance plan. It is generally not expected that the permit would need to be revised since the main conditions of the permit should be compliance with the plans and state minimum standards. These conditions would not change. The draft SWFP prepared by CalRecycle staff was designed so that revisions would normally not be necessary.